

DECISIONS
OF THE
RAILROAD COMMISSION

OF THE
STATE OF CALIFORNIA

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CALIFORNIA RAILROAD COMMISSION DECISIONS

DECISION No. 18476.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY,
A CALIFORNIA CORPORATION, FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISE
RIGHTS IN THE TOWN OF TEHACHAPI UNDER FRANCHISE
APPLIED FOR BY APPLICANT.

Application No. 13625.

Decided June 9, 1927.

CERTIFICATE—GAS UTILITY—FRANCHISE—To EXERCISE.—Application granted.

A. L. Cleveland, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by Midway Gas Company for an order declaring that public convenience and necessity require the exercise by it of the rights and privileges of franchise granted by the town of Tehachapi. Public hearing before Examiner Williams was held in Los Angeles May 28, 1927, at which time testimony was introduced and the matter submitted for decision.

It appears that applicant has constructed a gas distribution system to serve the town of Tehachapi, this system being supplied from applicant's so-called Monolith gas line. It is in connection with this extension of facilities that a franchise has been secured.

Ordinance No. 75, passed December 21, 1926, by the board of trustees of the town of Tehachapi, grants applicant a franchise to install, operate and maintain gas facilities within the town of Tehachapi. This franchise, a copy of which is attached to the application, is for a term of twenty-five years and carries the usual provision for a tax of 2 per cent of the gross revenue effective five years from the date of grant.

Witness for applicant testified that no other company is serving gas in the town of Tehachapi, that service can be rendered without detriment to present consumers on applicant's system, and that this service is in the public interest.

Applicant has filed with the Commission a stipulation duly and legally approved by resolution of its board of directors to the effect that applicant, its successors or assigns, will never claim before the Railroad Commission, or any court or public body, any value for the aforesaid franchise in excess of the original cost thereof, which is stated to be \$257.76.

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ORDER.

Midway Gas Company having applied to the Railroad Commission of the State of California for a certificate of public convenience and necessity for the exercise of certain rights and privileges granted by the town of Tehachapi, Ordinance No. 75, a public hearing having been held, the matter being submitted and now ready for decision:

The Railroad Commission of the State of California hereby certifies and declares that public convenience and necessity require and will require the exercise by Midway Gas Company of those rights and privileges granted by Ordinance No. 75 adopted by the board of trustees of the town of Tehachapi on December 21, 1926.

The authority herein granted shall be effective from and after the date of this order.

The foregoing opinion and order is hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this ninth day of June, 1927.

DECISION No. 18477.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA OREGON POWER COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO MERGE OR CONSOLIDATE ITS SYSTEM WITH THAT OF KENO POWER CO., A CORPORATION.

Application No. 13709.

Decided June 9, 1927.

TRANSFER—ELECTRIC UTILITY—To PURCHASE.—Application granted.

Brobeck, Phleger and Harrison, by *E. S. Taylor*, for Applicant.

BY THE COMMISSION.

OPINION.

The Railroad Commission is asked to make an order authorizing The California Oregon Power Company to merge or consolidate its plant or system with that of Keno Power Co. by purchasing the latter.

The application shows that The California Oregon Power Company is a corporation organized under the laws of the State of California and engaged, as a public utility, in generating electric energy and distributing it in the counties of Jackson, Josephine, Klamath, Douglas and Lane, in Oregon, and in the counties of Siskiyou, Shasta and Trinity, in California, and in developing and distributing water in the cities of Klamath Falls and Roseburg, Oregon, and in Dunsmuir, California. Keno Power Co. is a corporation organized under the laws of the state of Oregon and engaged in the business of generating electric energy and distributing it in and about the town of Keno

and the city of Klamath Falls, Oregon. The two systems are interconnected.

It appears that The California Oregon Power Company about 1921 purchased all the outstanding stock (\$180,000) of Keno Power Co. and has since operated the properties under lease arrangement. Applicant reports that it purchased the stock for \$60,000 and subsequently advanced to Keno Power Co. the sum of \$200,041.19 for additions and betterments and \$682.05 representing the cost of stock, the three items aggregating \$260,723.24. It estimates the reproduction cost of Keno Power Co. properties, as of August 1, 1926, at \$227,158, the depreciation at \$62,158 and the cost depreciated at \$265,000. An inventory of the properties, in some detail, and an appraisal are filed in this matter as Exhibit No. 4.

Applicant proposes to effect the merger or consolidation herein submitted to the Commission, by purchase, and has agreed to buy all the properties of Keno Power Co. of every kind, character and description, the franchises, business and assets, including accounts receivable, for the sum of \$260,723.24, which is said to represent its investment in the Keno properties. In carrying out the transaction it will cancel the amounts, \$200,723.24, owing from Keno Power Co. and will surrender for cancellation the common stock of Keno Power Co. which it purchased for \$60,000.

Although all of the properties of Keno Power Co. are located within the state of Oregon, applicant has elected to file this application with this Commission. In this connection reference should be made to section 51 (a) of the Public Utilities Act which provides, among other things, that no electrical or water corporation may merge or consolidate its plant or system, or franchises or permits, or any parts thereof, with any other public utility, without first having secured from the Commission an order authorizing it to do so.

ORDER.

The California Oregon Power Company having applied to the Railroad Commission for permission to merge or consolidate its plant or system with that of Keno Power Co., a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the application should be granted, as herein provided;

It is hereby ordered, that The California Oregon Power Company be and it hereby is authorized to merge or consolidate its plant or system with that of Keno Power Co. by purchase, for not exceeding \$260,723.24, all of the properties of Keno Power Co.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof.

It is hereby further ordered, that the California Oregon Power Company shall file with this Commission, within sixty days after the purchase of the properties of Keno Power Co., a certified copy of the deed under which it acquires and holds title to such properties.

Dated at San Francisco, California, this ninth day of June, 1927.

DECISION No. 18479.

IN THE MATTER OF THE APPLICATION OF STOCKTON WAREHOUSE COMPANY, A CORPORATION, TO ISSUE FIVE HUNDRED THIRTY-TWO SHARES OF ITS CAPITAL STOCK.

Application No. 13765.

Decided June 9, 1927.

SECURITIES—STOCK—TO ISSUE.—Application granted.

Nutter, Hancock and Rutherford, by *John Hancock*, for Applicant.

BY THE COMMISSION.

OPINION.

Stockton Warehouse Company asks permission to issue 532 shares (\$53,200 par value) of common capital stock and assume the payment of \$48,250 of indebtedness for the purposes hereinafter referred to.

The company was organized on or about March 29, 1927, with an authorized capital stock of \$75,000 divided into 750 shares of \$100 each. Under its articles of incorporation the corporation may engage in a general warehouse business. It is of record that prior to the formation of applicant corporation, its incorporators, Arthur J. Salz, J. J. Sinai, R. C. Jeannelle, R. B. Haley and Carroll G. Grunsky, entered into a written agreement with the California Wharf and Warehouse Company to purchase from the California Wharf and Warehouse Company the following described property:

All of Block C, being that certain block bounded by Weber avenue, Edison street, Stockton channel and Harrison street, together with certain warehouse buildings situate thereon and all warehouse equipment contained therein.

A copy of the agreement, dated February 25, 1927, is filed in this proceeding as applicant's Exhibit "C." Under the agreement the purchasers are obligated to pay for the properties \$53,250 as follows:

\$5,000 00	upon the execution of the agreement
\$2,500 00	on or before January 1, 1928
\$5,000 00	on or before January 1, 1929
\$5,000 00	on or before January 1, 1930
\$5,000 00	on or before January 1, 1931
\$5,000 00	on or before January 1, 1932
\$25,750 00	on or before January 1, 1933

The deferred payments bear interest at the rate of 6 per cent per annum. The testimony shows that of the purchase price \$5,000 has been paid and that the agreement will be assigned to applicant corporation. Applicant asks permission to issue and deliver \$5,000 of stock to its incorporators who have advanced and paid the \$5,000 to which reference has been made. It further requests authority to issue to the incorporators additional stock in the amount of \$48,250 at par from time to time as additional payments are being made upon the property which the corporation intends to acquire. As payments become due the incorporators will advance to applicant the necessary funds and accept the company's stock in payment for such advances. The order herein will permit applicant to assume the payments (\$48,250) still due under the agreement.

ORDER.

Stockton Warehouse Company having applied to the Railroad Commission for permission to issue \$53,200 of stock and assume indebtedness in the amount of \$48,250, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that the Stockton Warehouse Company be and it is hereby authorized to issue on or before January 1, 1933, \$53,200 par value of its common capital stock and to assume the payment of the balance due (\$48,250) under the agreement referred to herein and filed in this proceeding as applicant's Exhibit "C," provided that of the stock herein authorized to be issued, \$5,000 may be delivered to applicant's incorporators because of the \$5,000 payment made under said agreement. The remainder of the stock shall be sold for cash at not less than par and the proceeds used to pay the \$48,250 of indebtedness which applicant is hereby authorized to assume.

It is hereby further ordered, that the authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$49, and that Stockton Warehouse Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this ninth day of June, 1927.

DECISION No. 18480.

IN THE MATTER OF THE APPLICATION OF DEALERS TRANSPORTATION COMPANY, A CALIFORNIA CORPORATION, FOR AN ORDER AUTHORIZING ISSUE OF STOCKS.

Application No. 13804.

Decided June 9, 1927.

SECURITIES—STOCK—To ISSUE.—Application granted.

Edward E. Breitenbucher, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application of Dealers Transportation Co. for an order authorizing it to issue 200 shares of its capital stock of the aggregate par value of \$10,000.

The applicant corporation was organized on or about February 15, 1923, with an authorized capital stock of \$10,000 divided into 200 shares of the par value of \$50 each, all common. The company is engaged in transporting goods on the San Joaquin and Sacramento rivers and San Francisco Bay and its tributaries. It acquired at a cost of \$30,243.58 a new boat of 152 gross ton and 72 net ton capacity. Of the \$30,243.58, \$19,093.05 was advanced by C. F. Christensen, Florence Ann Jackson and F. L. Fulton. The balance of the cost of the boat was financed through the issue of notes and accounts payable. The \$10,000 of stock which applicant asks permission to issue will be accepted by C. F. Christensen, Florence Ann Jackson and F. L. Fulton in payment for the advances made by them.

ORDER.

Dealers Transportation Co. having applied to the Railroad Commission for permission to issue stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that Dealers Transportation Co. be and it hereby is authorized to issue, on or before October 31, 1927, 200 shares of its capital stock of the aggregate par value of \$10,000 to pay the \$19,093.05 advanced to applicant by C. F. Christensen, Florence Ann Jackson and F. L. Fulton and thereby finance in part the cost of the boat referred to herein.

It is hereby further ordered, that Dealers Transportation Co. shall keep such record of the issue of the stock herein authorized as will

enable it to file, within thirty days after such issue, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this ninth day of June, 1927.

DECISION No. 18482.

IN THE MATTER OF THE APPLICATION OF SOUTH END WAREHOUSE COMPANY, FOR PERMISSION TO RENEW NOTE IN FAVOR OF CROCKER FIRST FEDERAL TRUST COMPANY FOR TWO HUNDRED THOUSAND DOLLARS.

Application No. 13813.

Decided June 9, 1927.

SECURITY—NOTE—To ISSUE.—Application granted.

BY THE COMMISSION.

OPINION AND ORDER.

This is an application of South End Warehouse Company, a corporation, engaged in the general warehouse business in San Francisco, for permission to issue its promissory note for \$200,000 to renew a similar note now outstanding in favor of Crocker First Federal Trust Company.

In Application No. 12818, filed with this Commission on May 6, 1926, the company reported that it had purchased, for \$300,000, the following described property:

Commencing at a point on the northeasterly line of Second street distant thereon 137 feet 6 inches southeasterly from the southeasterly line of Brannan street; running thence southeasterly and along said line of Second street 137 feet 6 inches; thence at a right angle northeasterly 255 feet to the southwesterly line of Japan street; thence at a right angle northwesterly and along said line of Japan street 137 feet 6 inches; thence at a right angle southwesterly 255 feet to the point of commencement, being part of 100 vara lot No. 147.

There is situate on the land a five-story warehouse building with outside dimensions of 137 feet 6 inches on both Second and Japan streets and 255 feet deep.

To finance in part the cost of this property the company on May 27, 1926, executed to Crocker First Federal Trust Company its one-year 6 per cent note for \$200,000 secured by mortgage of the property. Applicant now desires to renew this note.

We have given consideration to applicant's request and are of the opinion that this is a matter in which a public hearing is not necessary and that the money, property or labor to be procured or paid for

through the issue of the note is reasonably required for the purpose specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expense or to income; therefore,

It is hereby ordered, that South End Warehouse Company be and it hereby is authorized to execute a mortgage substantially in the same form as that filed as Exhibit "H" in Application No. 12818 and to issue its promissory note for \$200,000 payable on or before one year after date of issue, with interest at not exceeding 6 per cent per annum, for the purpose of renewing the outstanding note of like amount in favor of Crocker First Federal Trust Company.

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute a mortgage is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the Public Utilities Act, and is not intended as an approval of said mortgage as to such other legal requirements to which said mortgage may be subject.

2. Applicant shall file with this Commission within thirty days after execution a certified copy of the mortgage and note herein authorized.

3. The authority herein granted shall become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$200.

Dated at San Francisco, California, this ninth day of June, 1927.

DECISION No. 18483.

SAN FRANCISCO, NAPA AND CALISTOGA RAILWAY, A CORPORATION,

vs.

WESTERN MOTOR TRANSPORT COMPANY, A CORPORATION.

Case No. 1626.

Decided June 9, 1927.

AUTO STAGES—ILLEGAL OPERATION—UNAUTHORIZED SERVICE.—Defendant and carriers, successors in interest, directed to discontinue unauthorized service.

John T. York, for Complainant.

Sanborn and Roehl, by *H. H. Sanborn*, for Defendant.

L. Richardson, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

San Francisco, Napa and Calistoga Railway, a corporation, complains of defendant Western Motor Transport Company, a corporation, alleging that the provisions of this Commission's Decision No. 8466 have not been observed by said defendant, a restriction in said decision providing "it shall not carry local passengers between North Vallejo

and Napa and intermediate points, nor between Napa and Santa Rosa and intermediate points, nor between Santa Rosa and Healdsburg and intermediate points, but it may carry passengers traveling through from one to another of said portions of through route and between any stage points on its Sacramento line east of Sacramento Junction"; that since defendant commenced operation in March, 1921, said defendant has carried and now continues to carry passengers between North Vallejo and the city of Napa and points intermediate thereto; that during such time defendant has carried and now continues to carry local passengers between the city of Napa and the city of Santa Rosa and intermediate points; that for the purpose of securing local traffic in violation of the terms of this Commission's decision defendant has authorized and permitted its ticket agent and the operators of its stage lines to represent and publish that it will carry local passengers between said prohibited terminals; that for the purpose of securing local traffic in violation of the terms of the Commission's decision defendant has procured certain automobiles to meet auto stages at Sacramento Junction and carry said local traffic into Napa; that for the purpose of securing local traffic between Napa and Vallejo defendant issued a ticket reading "good for continuous passage, Napa to South Vallejo," and has permitted its ticket agents to inform passengers that the station name had no significance and that drivers would let them leave the stage at any desired point; that defendant has established a station called King, located at an oil service station maintained by Napa City Water Company near its plant on Jefferson street in the city of Napa; and that no passengers have ever been carried between Vallejo and the station of King but were carried from Vallejo and discharged at the Palace Hotel in Napa, said hotel being located on Suscol avenue and Third street directly opposite the railroad station of complainant in the city of Napa.

Complainant further alleges that by a traffic contract, duly filed with this Commission, complainant and defendant have agreed to handle joint passenger traffic between all points on the line of complainant and all auto stage lines in Napa and Lake counties; that defendant has misrepresented the time of arrival and departure of the trains of complainant and by reason of such misrepresentation has secured passengers to be carried on its own stages between Oakland and said Napa and Lake County points who would otherwise have been carried on the joint lines covered by said traffic contract; that for the purpose of securing local traffic in violation of the conditions of the Commission's decision, defendant has authorized and permitted the operators of its stages to accept and carry passengers at any and all points between Napa and Vallejo, declining to furnish a ticket but accepting

cash fares, has accepted fares not provided in its published tariffs and schedules, and has at all times carried local passengers between prohibited points; that complainant is now and has always, in good faith, sold tickets and routed passengers from its joint line between Napa and Oakland and has been, and is at all times, ready and willing to provide any and all necessary accommodation and service to the public between Napa and Oakland and all other points reached by its line and to auto stage lines connecting at any point with complainant's railroad; that by reason of the transfer by defendant to A. Dunham of a portion of its route between Napa and Santa Rosa and to one Birch of a portion of its route between Santa Rosa and Healdsburg, said transfers having been approved by this Commission, there no longer exists a through auto service between Oakland and Healdsburg, but notwithstanding such fact defendant is now operating service as a common carrier between Napa and Oakland in conflict with the provisions of this Commission's Decision No. 8466 in unfair and unlawful competition as against the through route and joint rates now existing between Napa and Oakland by reason of the traffic contract between complainant and defendant.

Complainant prays for an order revoking the certificate contained in its Decision No. 8466, revoking the certificate heretofore granted to Baughman and Lycke and thereafter transferred to defendant and that said defendant be restrained and enjoined from further operation on the routes covered by said certificates.

Defendant duly filed its answer denying each and every material allegation of the complaint.

F. D. Everman, employed as traffic manager for defendant, testified that his company had established a station at a point near the crossing of the Southern Pacific Company and the highway leading from Napa to the Sonoma County line, said station having been named "King"; and that from March 3 to September 30, 1921, 151 tickets were sold from Vallejo to King station. Witness further testified regarding instructions issued by him in his capacity of traffic manager to agents and operators regarding the manner in which traffic was to be handled between Vallejo and Napa, such instructions having been contained in "Station and Operator's Bulletin No. 62," issued March 21, 1921, reading in part as follows:

Starting March 3d, a new service will be started between Oakland and Healdsburg, via Vallejo, Napa, Sonoma, Santa Rosa and Healdsburg.

Following regulations must be strictly observed by both operators and agents.

No. 1. Special provisions in our franchise state that we are not allowed to carry local passengers between North Vallejo and Napa or between Napa and Santa Rosa, or between Santa Rosa and Healdsburg. Between these points tickets must not be sold or cash fares taken. If passengers apply, state that you can not carry local passengers and refer them to the respective carriers who operate over these restricted zones.

You are allowed to sell tickets and collect cash fares if destination is from one zone into another from Oakland, Richmond, Pinole, Rodeo, South Vallejo to any point on line.

NOTE.—South Vallejo zone is from South Vallejo wharf, foot of Lemon street to point on road where Southern Pacific Railway crosses, or what is commonly known as the Marsh fill,

and that such instructions were delivered to all agents and operators, the witness having personally instructed each agent and operator regarding the necessity for absolute compliance therewith; and that some operators had been discharged for the violation of instructions regarding the carriage of local passengers in prohibited territory when the matter was brought to his attention by checks of inspectors; that from April 1, 1921, to May 28, 1921, 495 tickets were sold at Napa for South Vallejo.

John A. Eichwaldt, employed as an investigator by complainant, testified as to the purchase of a ticket at the Palace Hotel, Napa, the ticket being for a destination at Vallejo; of paying a cash fare from the Napa State Hospital to Vallejo; of paying cash fare on a trip from a point on the highway in the northerly portion of the city of Vallejo to Napa; and of paying a cash fare from Sacramento Junction to Napa; that he had endeavored to purchase a ticket from Vallejo to Napa and had been refused by the ticket agent at Vallejo. The ticket purchased by witness was received as complainant's Exhibit No. 1. This ticket is one issued by Western Motor Transport Co. on form 5, serial No. 353, reading South Vallejo to Napa, and is stamped on the reverse side "Jul 18 1921" or two days later than the date upon which witness, after referring to written memoranda, testified as to the date of purchase. The ticket calls for transportation in a direction which is the reverse of that for which witness intended to travel.

Marie Kretlow, a witness, employed by complainant during the month of March, 1921, to investigate stage conditions testified she purchased a ticket over the line of defendant from Vallejo to King, same being bought at the United Cigar Store in Vallejo; that she was told by the driver that she could stop off at Napa; that she purchased a ticket at the Palace Hotel, Napa, for South Vallejo, and on asking as to the location of South Vallejo was told by the agent that she could leave the stage at any point desired, such information being confirmed by the driver of the stage in response to her inquiry; that three other trips were made from Vallejo to Napa, a ticket to King being purchased in each instance, one trip made to King; two additional trips were made from Napa to Vallejo, tickets for which were purchased at the agency of the defendant at the Palace Hotel, Napa; and one ticket, Vallejo to King, was purchased but not used for transportation.

Witness further testified that on some of these trips passengers were picked up by the defendant's stages at the Napa State Hospital and on one occasion cash fares were observed to have been paid to the driver. We can not accord material weight to the testimony of this witness for the reason that not only was the evidence uncertain although largely given with the assistance of notes compiled following the several trips, but because a ticket from Vallejo to King testified as having been used by witness for transportation, Vallejo to Napa, was presented as complainant's Exhibit No. 3.

W. O. Croxdale, a witness employed by complainant as an investigator, testified that he presented himself at the agency of defendant in the Palace Hotel at Napa and asked for a ticket to Vallejo and was told that he could not be sold a ticket to Vallejo but would be sold to South Vallejo and he could get off where he wanted to. Witness purchased two tickets, one of which was used for passage to Vallejo. On the same day witness went to the ticket office at the United Cigar Store in Vallejo and requested a ticket to Napa, was told that they would not sell to that point, and upon requesting a ticket to King was refused but was told he could purchase a ticket to Santa Rosa.

James Lycke, employed as assistant traffic manager for defendant, testified he was formerly employed as a stage operator between Sacramento and Oakland and that while so employed it was a daily occurrence for passengers to request transportation from Vallejo or North Vallejo to Sacramento Junction and Napa; that he was familiar with his company's bulletin prohibiting the furnishing of such transportation and had consistently refused to accept local passengers between such points.

Frank C. Williams, employed as a stage operator by defendant, testified as to his operation of eight round trips daily between Napa and Sacramento Junction; that he was familiar with the bulletin of his company prohibiting the carrying of local passengers; that he had passengers request transportation to North Vallejo, some of whom boarded his stage; that when passengers insisted on going to North Vallejo he told them to take the electric railway, but if they desired to go to South Vallejo he went to the Napa ticket office, purchased a ticket and took them to the end of his run at Sacramento Junction where they transferred to another stage to reach their destination.

Arthur J. Leroux, employed as stage operator by defendant, testified he was assigned to service between Oakland and Sacramento; that in such service he transported passengers from Sacramento Junction to South Vallejo that had previously been transported from Napa to Sacramento Junction; that all such passengers held tickets; that almost daily requests were made by passengers for transportation from North

Vallejo to Napa or points intermediate, which inquiries were referred to the electric railroad; that he had never carried a passenger on a cash fare from North Vallejo to Sacramento Junction who was destined to Napa, or a point intermediate between Sacramento Junction and Napa; that he was familiar with his company's bulletin prohibiting the carriage of local passengers between Vallejo and Napa and had not violated such instructions.

Albert L. Owens, employed as agent at Vallejo by defendant, testified that an average of ten people inquired at his office daily for transportation from North Vallejo to Napa; that such inquiries were referred to the electric railroad; that at no time had he solicited business for Napa in violation of his company's bulletin prohibiting such practice; that he had sold tickets to King when same were requested by patrons but had sold no tickets destined to King to any passengers requesting tickets to Napa.

Defendant Western Motor Transport Company by the provisions of this Commission's authority as contained in its Decision No. 7111 on Application No. 5144, as decided February 11, 1920, acquired from W. A. Gentry the operative right for the transportation of passengers between Vallejo and Sacramento and between Napa and Sacramento Junction and was required to

file in its own name tariffs and time schedules or to adopt as its own the tariffs and time schedules heretofore filed by said W. A. Gentry, all rates and fares to be the same as those heretofore filed with the Commission by said W. A. Gentry.

Defendant Western Motor Transport Company by the provisions of this Commission's authority as contained in its Decision No. 8466 on Application No. 5758, as decided December 20, 1920, was granted an operative right for the operation

of a through auto stage service as a common carrier of passengers and baggage between Oakland and Healdsburg via Napa, Sonoma and Santa Rosa, but it shall not carry local passengers between North Vallejo and Napa and intermediate points nor between Napa and Santa Rosa and intermediate points, nor between Santa Rosa and Healdsburg and intermediate points, but it may carry passengers traveling through from one to another of said portions of said through route and between any such points and points on its Sacramento line east of Sacramento Junction.

Defendant Western Motor Transport Company by the provisions this Commission's Decision No. 8994, on Application No. 6775, as decided May 21, 1921, was authorized to sell and transfer to A. Dunham the operative rights between Napa and Santa Rosa as such rights existed under the authority granting same to said Western Motor Transport Company and as contained in this Commission's Decision No. 8466 on Application No. 5758, decided December 22, 1920. A. Dunham, as the successor in interest, was required

to immediately file tariff and time schedule, in duplicate, in his own name, or to adopt as his own the tariffs and time schedules heretofore filed with the Railroad Commission by applicant, Western Motor Transport Company, all rates to be identical with those filed by applicant, Western Motor Transport Company.

Defendant Western Motor Transport Company by the authority contained in this Commission's Decision No. 10073 on Application No. 7340, as decided February 8, 1922, sold and transferred to California Transit Company, a corporation, all of its franchises, assets, operative rights, equipment, property and assets, the order providing that

Applicant California Transit Company shall immediately file tariff of rates and time schedules, in duplicate, in its own name, or adopt as its own the tariffs and time schedules heretofore filed with the Railroad Commission by applicant Western Transport Company, all rates and time schedules to be identical with those filed by applicant Western Motor Transport Company.

Western Motor Transport Company filed with this Commission its Supplement No. 1 to Local and Joint Tariff No. 1, C. R. C. No. 2, on February 21, 1920, issued February 18, 1920, and effective February 20, 1920, in which are filed the rates authorized by Decision No. 7111 on Application No. 5144, same being the rates formerly in effect by W. A. Gentry.

Western Motor Transport Company filed with this Commission on January 13, 1921, its Local Passenger Tariff No. 4, C. R. C. No. 5, issued January 8, 1921, effective March 1, 1921, naming one-way and round-trip fares between Oakland and Healdsburg and intermediate points, in conformity with the Commission's Decision No. 8466 on Application No. 5758, North Vallejo and South Vallejo appearing as fare points in said tariff.

On March 2, 1921, defendant Western Motor Transport Company filed with this Commission its Local Passenger Tariff No. 5, C. R. C. No. 6, issued February 23, 1921, effective March 1, 1921, naming one-way and round-trip fares between Oakland and Healdsburg and intermediate points. This tariff named rates to stations not previously authorized as intermediate points to be served by this carrier, the authorized stations under Decision No. 8466 being those appearing in Application No. 5758, or Napa, Sonoma, Boyes Springs, Santa Rosa and Healdsburg. The tariff adds the additional points of Flosda, Napa Junction, Sacramento Junction, Soscol, Napa Hospital and Kings, all of which are unauthorized points and not covered by the Commission's certificate of public convenience and necessity.

Western Motor Transport Company by its Supplement No. 1 to Local Passenger Tariff No. 5, Supplement No. 1 to C. R. C. No. 6, naming one-way and round-trip fares between Oakland and Napa, and between Sacramento and Napa, and intermediate points, issued May 23, 1921,

effective May 29, 1921, canceled all fares appearing in tariff applying between points east of Napa on the one hand and points west of Napa on the other, by reason of the transfers authorized from Western Motor Transport Company to A. Dunham and J. F. Birch under the authority contained in this Commission's Decision No. 8994 on Application No. 6775, as decided May 21, 1921.

Western Motor Transport Company filed with this Commission on May 24, 1921, its Tariff C. R. C. No. 7, issued May 23, 1921, effective May 29, 1921, naming joint one-way and round-trip fares in connection with the lines of A. Dunham and J. F. Birch, between Oakland and Sacramento and Healdsburg, and to intermediate points, via Napa. In this joint tariff the unauthorized intermediate station of Kings again appears.

California Transit Company having purchased the operative rights of Western Motor Transport Company by the authority contained in this Commission's Decision No. 10073 on Application No. 7340, as decided February 8, 1922, filed on February 20, 1922, issued February 18, 1922, effective February 23, 1922, its adoption of the rates, fares, rules and regulations of Western Motor Transport Company.

California Transit Company by its adoption of the rates, fares, rules and regulations of Western Motor Transport Company is now operating under Joint Passenger Tariff No. 1 of Western Motor Transport Company, covering one-way and round-trip fares in connection with Rodeo-Vallejo Ferry Co., Vallejo Bus Co., A. Dunham, J. F. Birch, Shasta Transit Co., and Placer Auto Stage Co. (C. R. C. No. 9) in which tariff is shown as a fare point the unauthorized station of Kings.

The local tariffs of A. Dunham have never shown, and do not now show, the station King as a fare point, such station only appearing in the joint passenger tariff of Western Motor Transport Company as hereinabove referred to.

We have given full consideration to all the evidence and exhibits herein. It appears therefrom and we hereby conclude and find as a fact that no authorization had ever been given by certificate of public convenience and necessity for the transportation of passengers between North Vallejo (now Vallejo), and King or intermediate points, nor between North Vallejo (now Vallejo) and Napa and intermediate points; that the establishment of the stations of King, Flosden, Napa Junction, Soscol and Napa Hospital (also called Napa State Hospital) are not unauthorized by any certificate of public convenience and necessity issued by this Commission as required by the provisions of chapter 213, statutes of 1917, and effective amendments thereto. The situation here presented is similar to that previously determined by the Commission in its decision No. 9065 on Case No. 1442, *A. B.*

Watson vs. White Bus Line et al. (Opinions and Orders, C. R. C. Vol. 20, p. 18) wherein the principle was established that no transportation company subject to regulation by this Commission under the authority conveyed by chapter 213, statutes of 1917, and effective amendments thereto could enlarge or expand operative rights beyond those existing as of May 1, 1917, or subsequently granted by this Commission by a certificate of public convenience and necessity unless a certificate of public convenience and necessity as provided for in the statutory law had been issued by the Commission following application therefor and affirmative showing by an applicant. This decision was sustained by the California Supreme Court on September 22, 1922, by its decision in case S. F. No. 10099 (64 Cal. Dec. 278).

The facts herein presented sustain the allegations of the complaint in that defendant has by tariff publication, and without the certificating authority required by the statutory law, held itself out to the public as a common carrier of passengers by auto stage, for compensation, between North Vallejo (now Vallejo) and the stations of King, Flosda (or Flosden), Napa Junction, Sacramento Junction, Soscol, Napa Hospital (also known as Napa State Hospital), and to and from points intermediate between and between intermediate points on the line between North Vallejo (Vallejo) and Napa, and the order herein will direct discontinuance of such unauthorized and illegal operation.

ORDER.

A public hearing having been held on the above entitled complaint, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusion and finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that California Transit Co., a corporation, successor in interest to defendant Western Motor Transport Company, a corporation, be and it is hereby directed to immediately cease the transportation of passengers by auto stage as a common carrier, for compensation, between the stations of North Vallejo (now Vallejo) and the stations of King, Napa, Flosda (or Flosden), Napa Junction, Sacramento Junction, Soscol, and Napa Hospital (also known as Napa State Hospital) and to and from points intermediate between and between intermediate points on its line between North Vallejo (Vallejo) and Napa; and to and from points intermediate between and between intermediate points on its line between North Vallejo (Vallejo) and Napa; and to immediately cancel all rates applicable to the above points now appearing in its local tariffs, and in joint tariffs in which it is a participating carrier, by proper tariff filings containing such cancellations; and

It is hereby ordered, that the executor of the estate of A. Dunham, proprietor Dunham Stage Line Lines, successor in interest to the operative right of defendant Western Motor Transport Company as regards the operative right between Napa and Santa Rosa, be and he hereby is directed to immediately cease the transportation of passengers by auto stage as a common carrier, for compensation, between Napa and the station of King, either locally between such points or through passengers which may originate at or be destined to points on the line of the California Transit Co. between Napa and North Vallejo (now Vallejo) or points intermediate on such line; and to immediately cancel by proper filings with this Commission its concurrence with the joint tariff now filed with this Commission by California Transit Co. (being the adoption of the joint tariff of Western Motor Transport Company Joint Passenger Tariff No. 1, C. R. C. No. 9, issued September 7, 1921, effective September 8, 1921, in so far as such tariff names rates between the station of King and any other point in said joint tariff.

The effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this ninth day of June, 1927.

DECISION No. 18484.

ALBERS BROS. MILLING COMPANY

vs.

SOUTHERN PACIFIC COMPANY AND SUNSET RAILWAY.

Case No. 2312.

Decided June 9, 1927.

RATES—STEAM RAILROAD—MILO MAIZE—ALFALFA MEAL.—Finding the complaint that defendants collected unreasonable rates for the transportation of one carload of milo maize from Levee Spur to Palo Alto, during October, 1925, and one carload of alfalfa meal from Yarmouth to Palo Alto is not sustained, the Commission denies reparation and dismisses the complaint.

C. S. Connolly, for Complainant.

C. N. Bell, James E. Lyons and F. W. Mielke, for Defendants.

BY THE COMMISSION.

OPINION.

Complainant, Albers Brothers Milling Company, a corporation organized under the laws of Oregon, is engaged in the buying, selling and manufacturing of grain and grain products. By complaint filed April 8, 1927, and as amended at the hearing it is alleged (a) That the rate charged and collected on one carload of milo maize moving from

Levee Spur to Palo Alto during the month of October, 1925, was at the time the shipment moved, unjust and unreasonable to the extent it exceeded 23 cents per 100 pounds; (b) That the rate charged and collected on one carload of alfalfa meal moving from Yarmouth to Palo Alto during September, 1926, was at the time the shipment moved, unjust and unreasonable to the extent it exceeded 11 cents per 100 pounds, and (c) That the present rate on milo maize from Levee Spur to San Francisco and Oakland is now and for the future will be unjust and unreasonable to the extent it exceeds or may exceed 23 cents per 100 pounds.

Reparation and just and reasonable rates for the future are sought. Rates will be stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at San Francisco April 25, 1927, and the case having been submitted is now ready for an opinion and order.

Levee Spur is on the Sunset Railway 26 miles southwest of Bakersfield, the interchange point with the Southern Pacific; Yarmouth is on the Southern Pacific 6 miles south of Tracy, and Palo Alto is on the Coast Division of the Southern Pacific 30 miles south of San Francisco. The distance from Levee Spur to Palo Alto is 333 miles, to San Francisco 327 miles, and to Oakland 322 miles. From Yarmouth to Palo Alto the distance is 69 miles.

The rate assessed and collected on the shipment of milo maize from Levee Spur to Palo Alto was 29 cents, made by a combination of class and commodity rates over Redwood Junction. The factor from Levee Spur to Redwood Junction was a commodity rate of 25 cents, published in Pacific Freight Tariff Bureau Tariff 38-G, C. R. C. 342, using the rate to San Francisco as maximum at Redwood Junction, and from the latter point to Palo Alto the Class "C" of 4 cents, published in Southern Pacific Tariff 917-D, C. R. C. 2929. Since the filing of the complaint defendants have reduced the 29-cent rate to 25 cents.

Defendants assessed and collected on the shipment of alfalfa meal from Yarmouth to Palo Alto a rate of $13\frac{1}{2}$ cents, made by a combination of commodity rates over Tracy, the factor from Yarmouth to Tracy being $3\frac{1}{2}$ cents as published in Southern Pacific Tariff 793-B, C. R. C. 2487, and from Tracy to Palo Alto 10 cents as published in the same tariff. The latter factor was the Stockton to Palo Alto rate, held as maximum at Tracy.

The rate of 25 cents on milo maize from Levee Spur to San Francisco and Oakland is published in Pacific Freight Tariff Bureau Tariff 38-H, C. R. C. 377. At the hearing defendants agreed that this rate would be reduced to $23\frac{1}{2}$ cents, only $\frac{1}{2}$ cent higher than the adjustment here sought by complaint. The reduction from the Sunset Railway point

is for the purpose of harmonizing the rate with the rates from points on the Southern Pacific in the San Joaquin Valley to San Francisco, Oakland, Port Costa and South Vallejo, prescribed by this Commission in cases 1463 and 2125, *Albers Brothers Milling Company vs. Southern Pacific*, 20 C. R. C. 1, 21 C. R. C. 302, and 27 C. R. C. 684. In the proceedings cited, the reasonableness of the rates to San Francisco-Oakland were not in issue. The Case No. 2125 (27 C. R. C. 684-688) we said:

The grain rates in effect at Oakland, Port Costa and South Vallejo, and the differentials as between those stations, were established by our order in Case No. 1463 and reflect the past and existing competition between water and rail. The rail carriers would handle little, if any, of the grain tonnage produced in the Sacramento and San Joaquin valleys served by carriers by vessel should they fail to at least in part meet the competition.

A careful study has been made of the testimony, exhibits and briefs involving discrimination against Oakland as compared with Port Costa and South Vallejo from Sacramento and San Joaquin Valley points, but nothing presented in this proceeding indicates that the basis prescribed in Case No. 1463 was not proper and equitable.

Upon the question of discrimination and prejudice in the cited proceedings we found that from the points in the San Joaquin Valley on the Southern Pacific for distances over 300 miles, using Port Costa as the key point, the rates to San Francisco-Oakland should be the same as the rates to Vallejo and Port Costa. The distance from Levee Spur on the Sunset Railway to Port Costa on the Southern Pacific is 308 miles and the rate for the two-line haul is now $23\frac{1}{2}$ cents. Complainant contends the rate should not exceed 23 cents by reason of the fact that from branch line points on the Southern Pacific in this immediate territory a rate of 23 cents is maintained for the one-line haul. It is complainant's position that the Sunset Railway, being partly owned by the Southern Pacific, should be treated as a unit of that line for rate making purposes and no consideration given to the two-line services. We do not find sufficient proof in the record to maintain this contention. We find the rate of $23\frac{1}{2}$ cents, Levee Spur to San Francisco-Oakland, not excessive or discriminatory.

With respect to the rate of 25 cents to Palo Alto, complainant relies entirely upon a comparison with the rates applying to Oakland, San Francisco, Niles, Newark, Redwood City, San Mateo, Santa Clara, San Jose and Luther, the latter points being included within a single destination group and accorded, because of the competitive influence, common rates.

Complainant contends there is no justification for withholding from Palo Alto and points between Redwood Junction and Santa Clara the contemporaneously effective rate to the group points, proceeding on the assumption that the latter rates are reasonable *per se*.

The rate of 29 cents, Levee Spur to Palo Alto, assessed on com-

plainant's shipment yielded a ton-mile revenue of 17.4 mills for a haul of 333 miles, and the present 25-cent rate from and to the same points yields a ton-mile revenue of 15.0 mills. These rates and ton-mile earnings are compared with those in effect between various points in California.

The following statement compiled from exhibits is illustrative of the situation:

<i>From</i>	<i>Miles</i>	<i>Rate, cents</i>	<i>Revenue per ton mile, mills</i>
Levee Spur to Palo Alto.....	333	25 (present)	15.0
Levee Spur to San Pedro.....	219	27½	25.1
Maricopa to San Pedro.....	235	30	25.5
Durham to Salinas.....	263	35½	27.0
Durham to Paso Robles.....	361	38	21.1
Live Oak to Paso Robles.....	334	38	22.8
Live Oak to Hanford.....	274	26	19.0
Chico to Hanford.....	307	27½	17.9
Whittier to Bakersfield.....	190	26	27.4
Pasadena to Holtville.....	228	30	26.3
Westmoreland to Pasadena.....	205	28	27.3
Westmoreland to Redlands.....	141	30½	43.3

Palo Alto is not intermediate between San Joaquin Valley points and San Francisco, neither do the Palo Alto rates reflect water competition which in the past has had such a controlling influence at San Francisco, Oakland, Port Costa, South Vallejo, Stockton, Sacramento and San Jose.

It is not unusual to carry rates to Palo Alto higher than the concurrently effective rates to San Francisco, and attention is called to the fact that the rate on hay and straw from Stockton to San Francisco is 10 cents and to Palo Alto 15 cents; on flour from Fresno to San Francisco 25½ cents and to Palo Alto 31 cents, and on lumber from Stockton to San Francisco 8½ cents, and 13 cents to Palo Alto. Also the movement of grain and grain products from points in the San Joaquin Valley to Palo Alto is extremely light, inasmuch as only two cars moved during the year 1926 from points south to Tracy, Lathrop or Stockton, one of which was complainant's shipment from Yarmouth to Palo Alto and the other a car of corn.

As heretofore stated, the rates from the San Joaquin Valley, west side points, to San Francisco, Oakland, South Vallejo, Port Costa and Sacramento (Cases 1463 and 2125, *supra*) were established to remove discrimination and prejudice found to exist between the milling industries due to competitive water rates. Port Costa was the key point in this adjustment with distance disregarded in the group rates, and the rates ordered into effect were not declared to be reasonable. Palo Alto is not affected by the same conditions and not entitled to the same adjustment. The reductions made, since this proceeding was

filed, of from 29 cents to 25 cents, Levee Spur to Palo Alto, and the proposed reduction from 25 cents to $23\frac{1}{2}$ cents, Levee Spur to San Francisco-Oakland have not been found to be either unjust or unreasonable.

The assailed rate of $13\frac{1}{2}$ cents from Yarmouth to Palo Alto for 69 miles produces a ton-mile revenue of 39.1 mills, and if the San Francisco-Oakland group rate of $9\frac{1}{2}$ cents was extended to Palo Alto the per ton-mile earnings would be 28.9 mills. These rates are compared with those concurrently in effect between various points in the Sacramento and Salinas valleys and in Southern California for comparable distances.

The following rates and ton-mile earnings taken from exhibits show the grain rate adjustment between these points:

<i>From</i>	<i>Miles</i>	<i>Rate, cents</i>	<i>Revenue per ton mile, mills</i>
Yarmouth to Palo Alto.....	69	$13\frac{1}{2}$	39.1
Colusa to Sacramento.....	71	14	39.4
San Fernando to San Pedro.....	43	13	60.5
Los Angeles to Pomona.....	33	13	78.8
Ontario to Los Angeles.....	38	$14\frac{1}{2}$	76.3
Colton to Los Angeles.....	57	17	59.6
Colton to San Pedro.....	81	$17\frac{1}{2}$	43.2
Riverside to Los Angeles.....	65	17	52.3
Greenspot to Los Angeles.....	71	$17\frac{1}{2}$	49.3
Auburn to Dixon.....	56	$14\frac{1}{2}$	51.8
Auburn to Woodland.....	58	$14\frac{1}{2}$	50.0
Colusa to Woodland.....	48	14	58.3
Bakersfield to Mojave.....	68	$21\frac{1}{2}$	63.2
San Fernando to Santa Paula.....	45	16	71.1
Gonzales to Monterey.....	39	$14\frac{1}{2}$	74.4
King City to Monterey.....	69	$17\frac{1}{2}$	50.7

This record does not show the Yarmouth to Palo Alto rate of $13\frac{1}{2}$ cents to be either unjust or unreasonable.

We do not find that the rates when assessed and collected were unreasonable, and reparation is denied.

After careful consideration of all the facts we are of the opinion and find that complainant has failed to show that the assailed rates were unjust or unreasonable.

The complaint will be dismissed.

ORDER.

This case having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that the complaint in the above entitled proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this ninth day of June, 1927.

DECISION No. 18498.

IN THE MATTER OF THE PETITION OF THE TRACY GAS COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO FURNISH GAS TO THE CITY OF TRACY, SAN JOAQUIN COUNTY, AND FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ONE HUNDRED THOUSAND DOLLARS OF ITS CAPITAL STOCK AND ONE HUNDRED THOUSAND DOLLARS OF ITS FIRST MORTGAGE BONDS TO FINANCE SUCH CONTEMPLATED IMPROVEMENTS.

Application No. 13295.

Decided June 10, 1927.

CERTIFICATE—GAS UTILITY—FRANCHISE PROVISIONS.—The Commission refuses to modify the provisions of the certificate to permit expenditures for plant or materials, other than that specified in applicant's franchise from the city of Tracy.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

The Railroad Commission in its order in Decision No. 17769, dated December 20, 1926, as amended, declared that hereafter upon the filing of a certified copy of an ordinance of the city of Tracy granting to John F. Beals, his successors and assigns, a franchise to construct, operate and maintain an artificial gas plant; a properly executed assignment of said franchise to Tracy Gas Company and a stipulation duly authorized by its board of directors declaring that Tracy Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for said rights and privileges in excess of the amount actually paid to the city of Tracy as a consideration for the granting of such franchise, the Railroad Commission will declare that public convenience and necessity require and will require the exercise by applicant of the rights and privileges granted to it by such ordinance, subject to such terms and conditions as the Railroad Commission may prescribe.

In the same order the Commission authorized the company to issue and sell on or before October 1, 1927, for cash at not less than par, \$75,000 of its common capital stock. Of the proceeds realized from the sale of such stock, an amount not exceeding 17½ per cent may be expended by applicant to pay commissions and all other expenses incident to the sale of such stock. All remaining proceeds shall be deposited with a bank or banks and may be expended by applicant only for such purposes as the Commission will authorize by a supplemental order or orders.

The Commission's order further provides that the Tracy Gas Company shall not enter into any contract for material or enter into any contract for the construction of its proposed gas plant until it has

sold at least \$50,000 of the \$75,000 of stock and has on deposit with a bank or banks at least 75 per cent of the selling price of the stock. The order further provides that the authority granted to construct, maintain and operate a gas plant will become effective when applicant has filed the stipulation referred to above and when applicant has on deposit with a bank or banks at least 75 per cent of the selling price of the \$50,000 of stock.

On April 12th Tracy Gas Company filed an amended petition in the above entitled matter in which it asks the Commission to modify Decision No. 17769 by permitting \$25,100 of stock to be sold for cash and the deposit of 75 per cent of the selling price thereof in a bank, to wit, the sum of \$18,825, instead of requiring it to sell \$50,000 of stock, as provided in the order, upon the express understanding and agreement that an additional \$35,000 in stock shall be issued to E. A. MacGillivray as part of his first payment on his contract to construct the gas plant for the sum of \$150,000. The company also filed with the Commission a copy of Ordinance No. 112 from the city of Tracy and its assignment to the Tracy Gas Company, a copy of its proposed contract with E. A. MacGillivray and the stipulation to which reference has been made herein.

Ordinance No. 112 of the city of Tracy requires the grantee to use cast iron pipe in constructing a low pressure system. The belt line is to be not less than six inches in diameter with no main less than two inches and with house services not less than one and one-fourth inch carried to the property line. The contract that has been filed does not provide for the construction of a distributing system of cast iron pipe. We will not approve the contract, or authorize the expenditure of any stock or bond proceeds to pay for a plant built of material other than that specified in the franchise. Applicant's request for a modification of the order in Decision No. 17769 so that \$35,000 of stock may be delivered to the contractor will not be granted. Neither will we at this time authorize the company to issue \$5,000 of stock to Leon Melekov in payment for lands and rights of way. We will not modify any provision of the order in Decision No. 17769, as amended, except approve the stipulation filed by applicant; therefore,

It is hereby declared that Tracy Gas Company has filed the stipulation as provided in the order in Decision No. 17769, dated December 20, 1926, which stipulation states that neither said company, its successors or assigns, will claim before the Railroad Commission or any other public body, a value for the rights and privileges granted by Ordinance No. 112 of the city of Tracy in excess of the actual cost thereof, which cost is stated to be \$25, and that public convenience and

necessity require and will require Tracy Gas Company to exercise the rights and privileges granted in said Ordinance No. 112.

It is hereby ordered, that the order in Decision No. 17769, dated December 20, 1926, as amended, will remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this tenth day of June, 1927.

DECISION No. 18502.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO CLOSE ITS AGENCY AT SHINGLE SPRINGS STATION, COUNTY OF EL DORADO, STATE OF CALIFORNIA.

Application No. 11762.

Decided June 14, 1927.

TRANSPORTATION—STEAM RAILROAD—AGENCY—TO CLOSE.—Finding that it would not be in the public interest to close the agency because of the extent of territory left without agency accommodations, the application is dismissed by the Commission.

H. W. Hobbs, for Applicant.

Clarence Schreiber, Protestant.

H. C. Cridge, Protestant.

L. A. Belon, Protestant.

C. H. Housner, Protestant.

W. S. Biggs, Supervisor, Third District, El Dorado County, Protestant.

BY THE COMMISSION.

OPINION.

Southern Pacific Company, a corporation, has petitioned the Railroad Commission for an order authorizing the closing of its agency station at Shingle Springs on the Placerville branch of its Sacramento Division in El Dorado County, alleging that the maintenance of an agency at such station is not justified and that the maintenance of a nonagency station will furnish adequate service to its patrons under present conditions.

A public hearing on this application was conducted by Examiner Handford at Placerville, the matter was duly submitted and is now ready for decision.

In support of its allegations applicant filed a statement as a portion of its application showing revenue received from Shingle Springs station during the yearly period ending June 30, 1925, and from such statement the following data have been compiled:

Year Ending June 30, 1925—			
Passenger tickets sold	-----		\$880 00
Less than carload freight—			
Received	-----	\$764 00	
Forwarded	-----	350 00	1,114 00
			<hr/>
Total tickets sold and L. C. L. freight	-----		\$1,994 00

Carload freight—		
Received	\$688 00	
Forwarded	2,296 00	\$2,984 00
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Total revenue		\$4,978 00

The expense of maintaining the station during the above period was \$1,593.24. Based on the foregoing figures the percentage of revenue derived from passenger tickets sold and less than carload freight, received and forwarded, required to care for the station expense was 77.58 per cent, and the percentage of total revenue required for the station maintenance was 32.01 per cent.

A statement filed as an exhibit at the hearing shows the revenue derived for the yearly period ending November 30, 1926, and from such statement the following data has been compiled:

Year Ending June 30, 1926—		
Passenger tickets sold		\$374 00
Less than carload freight, received and forwarded		1,002 00
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Total ticket sales and L. C. L. freight		\$1,376 00
Carload freight, received and forwarded		2,390 00
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Total revenue		\$3,766 00

The expense of maintaining the station during the above period was \$1,571. Based on the foregoing figures for this period, the percentage of revenue derived from ticket sales and less than carload freight, received and forwarded, required to care for the station expense was 114.17 per cent, and the percentage of total revenue required for the station maintenance was 23.97 per cent.

The following is the record of the carload business handled at Shingle Springs during the periods shown:

Year Ending June 30, 1925—			Year Ending November 30, 1926—		
Commodity	Number cars		Commodity	Number cars	
	Received	Forwarded		Received	Forwarded
Cord wood	—	26	Soapstone	—	13
Grapes	—	2	Cord wood	—	15
Feed	2	—	Gravel	2	—
Grain	1	—	Hay	2	—
Gravel	2	—	Macadam	2	—
Oil	2	—	Crude oil	2	—
Salt	1	—	Poultry feed	1	—
Tank material	1	—	Salt	1	—
			Sheep	2	—
	9	28		12	28

None of the foregoing commodities require the services of an agent, cars being loaded by shippers and unloaded by consignees.

W. M. Stillman, assistant superintendent of the applicant's Sacramento Division, testified regarding the service and facilities at Shingle

Springs station, and the service that would be available for the public were the station to be operated as a nonagency point. Shingle Springs is now served by one passenger train each way daily and by triweekly local freight service from Sacramento on Mondays, Wednesdays and Fridays, and toward Sacramento on Tuesdays, Thursdays and Saturdays.

The granting of the application is protested by residents of Shingle Springs and patrons of the railroad.

Clarence Schreiber, postmaster and proprietor of a general merchandise store at Shingle Springs, testified 90 per cent of the freight received at that point was transported by applicant's railroad, the balance being handled by private trucks, but little freight being handled by the authorized truck line serving Shingle Springs as an intermediate point on its route between Sacramento and Placerville.

W. S. Biggs, supervisor of the third district of El Dorado County, testified as to the territory tributary to Shingle Springs being a large area devoted to small farms; that the fruit industry was formerly more active than it had been in recent years; and that the mining industry which had formerly contributed to the prosperity of the community, had for the past few years been inactive although there were prospects for its revival.

H. C. Cridge, representing the French Creek Farm Center, testified that he represented a dry-farming community, and that objection existed to the closing of the agency station for the reason that Placerville would then be the only station in El Dorado County.

Fred Wessels, secretary of the Rescue Farm Bureau Center, testified his organization had established a cooperative purchasing association for the purpose of securing commodities in quantity; that feed and poultry supplies, which were formerly moved by trucks, were now secured in carload quantities and delivery was taken at Shingle Springs; that the poultry industry was rapidly developing in his community and that it was his opinion the volume of business would be increased.

Chas. Brunetti, a vineyardist residing seven miles southeast of Shingle Springs, testified that he shipped two or three carloads of grapes each year. These shipments, however, are loaded at, and move from the nonagency station of Brandon, which is two miles west of the vineyard owned by the witness, and such station would be used, as in the past, for his shipments.

We have given full consideration to the record in this proceeding. While the volume of passenger and less than carload freight business at Shingle Springs is not extensive, and it is for these items that the services of an agent are particularly desirable for the patrons of the

railroad, a condition would be created if the agency were to be discontinued where no agency facilities would be available for the public over a territory 34 miles in length. In our opinion we conclude such a condition is not in the public interest and the application will, therefore, be denied.

ORDER.

A public hearing having been held on the foregoing application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusion as appearing in the opinion which precedes this order;

It is hereby ordered, that this application be and the same hereby is denied.

Dated at San Francisco, California, this fourteenth day of June, 1927.

DECISION No. 18504.

IN THE MATTER OF THE APPLICATION OF FRANK MERKLE AND FRANK MERKLE, JR., FOR PERMISSION TO OPERATE AS A PUBLIC UTILITY AS A WATER COMPANY TO SELL WATER FOR DOMESTIC PURPOSES UNDER THE FICTITIOUS NAME OF GLORIA GARDENS WATER COMPANY.

Application No. 13567.

Decided June 14, 1927.

CERTIFICATE—WATER UTILITY—To OPERATE—RATES.—Application granted. Rates established.

Frank Merkle, Jr., for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled application Frank Merkle and Frank Merkle, Jr., doing business under the fictitious name of Gloria Gardens Water Company, ask authority to operate a public utility water system to serve water to tracts No. 5501 and No. 8898, in Los Angeles County.

A public hearing in this matter was held before Examiner Williams at Los Angeles after all interested parties had been duly notified and given an opportunity to be present and be heard.

The evidence shows this water system was installed to aid in the sale of lots in tracts No. 5501 and No. 8898 comprising a total of approximately 106 acres subdivided into 286 lots of various sizes. The water supply is obtained from a well equipped with a deep well turbine pump connected automatically with a 2000-gallon pressure tank which delivers water through the distribution mains at a working pressure varying from 16 to 38 pounds. It is claimed that the well will produce 60 miner's inches of water which with the present equipment furnishes an adequate water supply to the eighty consumers now connected to the

system, and will provide service for a substantial increase of demand. The pipe lines are of two- and three-inch second-hand casing reconditioned and dipped.

The system was installed before the streets and alleys were dedicated to the public and a county franchise was therefore not required to install the pipe lines.

Applicant was the original owner of the subdivided land and still holds property valued at \$30,000. The evidence indicates that he is financially able to operate the water system and make any repairs or improvements necessary.

The rates requested by applicant, except for metered service, have been in effect for some time. Said rates are reasonable under the present operating conditions and compare favorably with the rates charged by other utilities operating in the general vicinity under similar circumstances.

ORDER.

Frank Merkle and Frank Merkle, Jr., doing business under the fictitious name and style of Gloria Gardens Water Company, having made application to this Commission for a certificate of public convenience and necessity to operate a public utility water system to supply water to consumers in Los Angeles County, a public hearing having been held thereon, and the matter having been submitted and the Commission being now fully advised in the premises.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that Frank Merkle and Frank Merkle, Jr., doing business under the fictitious name and style of Gloria Gardens Water Company, construct and operate a water system for the purpose of supplying water for domestic purposes in tracts No. 5510 and No. 8898, in Los Angeles County.

It is hereby ordered, that said Frank Merkle and Frank Merkle, Jr., be and they are hereby authorized and directed to file with the Railroad Commission of the State of California within thirty days of the date of this order the following schedule of rates to be charged for all service rendered subsequent to July 1, 1927.

Monthly Flat Rate.

For each house on one lot.....	\$1 00
For dairy barns.....	2 00
Additional for each head of stock.....	15
School	3 00

METER RATE.

Monthly Minimum Charges.

$\frac{3}{4}$ -inch meter	\$1 25
$\frac{1}{2}$ -inch meter	1 75
1- inch meter	2 50
1 $\frac{1}{4}$ -inch meter	3 50
2- inch meter	6 00

Each of the foregoing monthly minimum charges will entitle the consumers to the amount of water which that monthly minimum charge will purchase at the "Monthly Meter Rates" set out below:

Monthly Meter Rates.

0 to 500 cubic feet, per 100 cubic feet-----	\$0 25
500 to 1,500 cubic feet, per 100 cubic feet-----	20
1,500 to 5,000 cubic feet, per 100 cubic feet-----	15
5,000 to 10,000 cubic feet, per 100 cubic feet-----	12
All over 10,000 cubic feet, per 100 cubic feet-----	10

Meters may be installed upon any service at the option of either the utility or the consumer. If installed at the option of the utility, the entire cost shall be borne by the utility. If installed at the request of the consumer, the cost of meter and installation shall be advanced by the consumer to the utility and the money so advanced shall be refunded to the depositor as credits on monthly bills for water furnished at the rate of 30 per cent of the total amount of such monthly bill.

It is hereby further ordered, that Frank Merkle and Frank Merkle, Jr., be and they are hereby directed to file with the Railroad Commission within thirty days from the date of this order rules and regulations governing the distribution of water to its consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourteenth day of June, 1927.

DECISION No. 18505.

IN THE MATTER OF THE APPLICATION OF MIDLAND COUNTIES PUBLIC SERVICE CORPORATION FOR AN ORDER AUTHORIZING THE EXECUTION AND DELIVERY OF AN INDENTURE SUPPLEMENTAL TO A CERTAIN TRUST INDENTURE DATED SEPTEMBER 1, 1921, AND FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF CERTAIN BONDS.

Application No. 13811.

Decided June 14, 1927.

SECURITIES—BONDS—To SELL.—Applicant authorized to issue and sell \$2,500,000 of first mortgage 5 per cent bonds, and to use proceeds to pay indebtedness, to retire outstanding bonds, and for other corporate purposes.

Murray Bourne, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled matter Midland Counties Public Service Corporation asks the Railroad Commission to make an order authorizing it:

1. To execute and deliver an indenture, dated January 1, 1927, supplemental to its trust indenture of September 1, 1921, in the form filed in this matter as Exhibit 1;

2. To issue and sell, at 93.25 per cent of face value plus accrued interest, \$2,500,000 of its first mortgage 5 per cent thirty-year bonds;

3. To use the proceeds to be received through the issue and sale of such bonds to pay outstanding indebtedness incurred in retiring bonds formerly outstanding and in making capital expenditures; and

4. To amortize the unamortized discount and expense on the bonds heretofore redeemed, together with the premium expended in so redeeming them, with the discount and expense on the bonds proposed to be issued, over the life of such new bonds.

Midland Counties Public Service Corporation has outstanding \$1,000,500 of stock, all of which, except nine shares held by directors, is reported held by Western Power Corporation. It reports no bonds outstanding but accounts payable and other current liabilities at \$3,394,597.01. As of April 30, 1927, it reports its total assets and liabilities as follows:

<i>Assets.</i>	
Fixed capital in service.....	\$4,742,846 17
Fixed capital under construction.....	351,496 58
Total fixed capital.....	\$5,094,342 75
Current assets:	
Cash	\$7,658 43
Special deposits	5,000 00
Accounts receivable	105,559 22
Materials and supplies.....	119,313 68
Other	2,571 74
Total current assets.....	240,103 07
Sinking funds	48 19
Deferred debits	241,924 51
Total assets	\$5,576,418 52
<i>Liabilities.</i>	
Capital stock	\$1,000,500 00
Current liabilities:	
Accounts payable	\$38,742 34
Due affiliated companies	2,780,361 82
Notes payable—affiliated companies.....	552,950 32
Accruals	12,235 01
Consumers' deposits	10,307 52
Total current liabilities.....	3,394,597 01
Deferred credits	218,745 61
Reserves	535,785 58
Surplus	426,790 32
Total liabilities	\$5,576,418 52

It appears on December 31, 1926, applicant had an outstanding bonded debt of \$1,884,000, consisting of \$1,254,000 of Series "A"

7½ per cent general refunding mortgage bonds, due 1956, \$385,000 of Series "B" 6 per cent general refunding mortgage bonds, due 1952, and \$245,000 of 6 per cent underlying bonds, due 1932. Subsequently, with moneys advanced to it by Western Power Corporation, applicant paid and retired all its outstanding bonds, calling them at a total premium of \$125,550. Applicant now asks permission to use the proceeds from the sale of \$1,884,000 of bonds covered by this application to pay, in part, these advances by Western Power Corporation used in retiring the \$1,884,000 of bonds formerly outstanding. It estimates its annual savings as a result of this refinancing at \$13,262.

Applicant asks permission to use the proceeds from the sale of the remaining \$616,000 of bonds to pay indebtedness incurred in making capital expenditures or reimburse its treasury because of income expended for such purpose. In its Exhibit "C" it reports the balance of construction expenditures unfinanced at April 30, 1925, as shown in Decision No. 15541, dated October 21, 1925, at \$344,708.98 and subsequent expenditures up to April 30, 1927, of \$936,687.70, making total expenditures of \$1,281,396.68 against which no bonds or stocks have been issued and which it is now proposed to finance in part through the issue of the \$616,000 of bonds.

ORDER.

Midland Counties Public Service Corporation having applied to the Railroad Commission for authority, as indicated in the foregoing opinion, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the application should be granted as provided herein, and that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income.

It is hereby ordered, that Midland Counties Public Service Corporation be and it hereby is authorized to execute a supplemental indenture substantially in the same form as that filed in this proceeding as Exhibit 1, and to issue and sell, on or before September 1, 1927, at not less than 93.25 per cent of face value plus accrued interest \$2,500,000 of its first mortgage 5 per cent bonds for the purpose of paying outstanding indebtedness incurred in retiring bonds and in making capital expenditures or reimburse its treasury because of income expended for said purposes.

It is hereby further ordered, that Midland Counties Public Service Corporation be and it hereby is authorized to amortize the unamortized discount and expense on the \$1,884,000 of bonds heretofore redeemed,

together with the premium expended in so redeeming them, over the life of the bonds herein authorized to be issued.

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute a supplemental indenture is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said indenture as to such other legal requirements to which said indenture may be subject.

2. Applicant shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,750.

Dated at San Francisco, California, this fourteenth day of June, 1927.

DECISION No. 18508.

AUTO TRANSIT COMPANY, A CORPORATION,

vs.

PICKWICK STAGES, NORTHERN DIVISION, INC., A CORPORATION.

Case No. 2103.

Decided June 14, 1927.

AUTO STAGES—UNAUTHORIZED SERVICE—INTERMEDIATE POINTS.—Reaffirming its previous finding that service can not be extended to other points than those named in the carrier's certificate by the filing of rates to such points, the Commission orders the unauthorized service to such points discontinued and the rates therefor withdrawn and canceled.

J. E. McCurdy, for Complainant.

Warren E. Libby, for Defendant, and for Blabon and Cleaveland, lessors of the operative right in question.

BY THE COMMISSION.

OPINION.

Auto Transit Company, a corporation, engaged in the operation of an automobile stage line transporting passengers between San Francisco and Santa Cruz and other points, including Watsonville and Hollister and stations between said points and intermediate to Hollister, complains of defendant Pickwick Stages, Northern Division, Inc., a corporation, and for cause of complaint alleges that defendant, engaged in the operation of automobile passenger stage lines in the State of

California, heretofore on January 19, 1925, filed with the Railroad Commission a tariff known as Supplement No. 2 to C. R. C. No. 26, effective February 16, 1925, and cancelling Supplement No. 1 to said Tariff C. R. C. No. 26; that said supplement was filed in connection with the Monterey-Salinas Auto Service and Monterey-Salinas Auto Stage Line and shows local service and fares between San Luis Ranch and Fresno and other points including Hollister, San Juan, Chittenden Road Junction, Chittenden, Aromas, Watsonville, Aptos, Soquel and Santa Cruz; that said defendant has no operative right or authority from the Railroad Commission, or any other right, to engage in the operation of said automobile stage line for the carriage of passengers as shown on said tariff; that any operation as contemplated under said tariff would be illegal and in violation of law and of the rules and regulations of this Commission.

Complainant prays for an order of this Commission directing defendant to stop the contemplated operation under the proposed tariff.

Defendant corporation duly filed its answer herein denying the material allegations of the complaint, and alleging that it has operative rights to conduct operation between each and all the points set forth in its tariff known as Supplement No. 2 to C. R. C. No. 26, effective February 15, 1925.

A public hearing on this complaint was conducted by Examiner Handford at San Francisco, at which time Pickwick Stages System, a corporation, successor in interest to Pickwick Stages, Northern Division, Inc., was substituted as defendant herein, the matter was duly submitted and is now ready for decision.

Geo. H. Higgins, president of Auto Transit Company, testified that the Pickwick Stages did not operate through Aromas, although showing such point on their tariffs, passengers being discharged at a point on the highway approximately one-half mile from the town; that he had been informed by drivers of the Pickwick Stages that passengers were being carried locally between Hollister and Santa Cruz, being transferred at Chittenden Junction from the San Jose-Hollister line to the Fresno-Santa Cruz line and delivered by such car to Watsonville and points intermediate between Chittenden Junction and Watsonville, also passengers were being transported from Hollister to Soquel and Aptos, which are points between Santa Cruz and Watsonville.

J. S. Nickols, employed by the Auto Transit Company, testified he was formerly operating a stage line between Watsonville and Hollister, known as the "Red Star Auto Stage Line," under the authority of a certificate from this Commission; that said line served Watsonville, Aromas, Chittenden, Chittenden Road Junction, San Juan and Hollister; that such line was transferred, by authority of the Commission,

to Auto Transit Company and was now operated by such company over the same route and serving the same points as originally established.

Mrs. Cora B. Carden, employed as ticket agent at the Union Stage Depot in Santa Cruz, testified that she formerly sold tickets for the Blabon & Cleaveland stage line, operating between Fresno and Santa Cruz prior to its acquisition by defendant; that no tickets were ever sold over such line between Santa Cruz and Hollister and points intermediate between such stations; that she was instructed by both Blabon and Cleaveland, the proprietors of the line, not to sell tickets between Santa Cruz and Hollister and intermediate points; and that to her knowledge no such tickets were sold, nor were passengers carried or tariffs issued calling for such service.

C. M. Blabon, a former partner with J. R. Cleaveland in the operation of the "Blabon & Cleaveland" line between Santa Cruz and Fresno, testified that to his knowledge he had never filed, or authorized the filing, of any tariff with this Commission offering service between Santa Cruz and Hollister, or points intermediate between such stations, nor were any passengers carried locally between such points during the time the partnership was operating the line; and that he had instructed ticket agents not to sell any tickets between such points.

E. V. Davis, employed as a driver by Auto Transit Company and formerly employed by the Blabon & Cleaveland line, testified that in his operation between Santa Cruz and Fresno for the Blabon & Cleaveland line he carried no passengers locally between Hollister and Santa Cruz, or points intermediate thereto, having been instructed by both members of the partnership not to carry passengers between such points.

C. M. Blabon and J. R. Cleaveland, partners in business, by the authority contained in this Commission's Decision No. 7648 on Application No. 5192, as decided May 27, 1920, were granted a certificate of public convenience and necessity to operate an automobile stage line as a common carrier of passengers between Fresno and Santa Cruz by way of Los Banos, Hollister, San Juan and Watsonville, the order providing

* * * that no local passengers will be carried in connection with this permit between Fresno and Los Banos and between Watsonville and Santa Cruz.

The rate schedule as filed with the application shows no local rates between Hollister and Santa Cruz and points intermediate thereto.

By its Decision No. 14010 on Application No. 10445 as decided September 5, 1924, the Railroad Commission authorized the transfer of the operative rights previously granted to C. M. Blabon and J. R. Cleaveland, copartners, by Decision No. 7648 on Application No. 5192,

to Pickwick Stages, Northern Division, a corporation, the order referring to the prohibition against the transportation of passengers locally between Watsonville and Santa Cruz and reciting:

that in granting application as herein applied for the Commission in no way authorizes any different, greater or less service than that now being rendered by the copartnership.

also requiring:

3. Applicant Pickwick Stages, Northern Division, shall immediately file, in duplicate, or adopt as its own the tariff of rates and time schedules as filed by the copartners Blabon and Cleaveland covering said service. All rates and time schedules to be identical with those as filed by the said copartners.

Blabon & Cleaveland under date May 18, 1920, filed with the Railroad Commission their local Passenger Tariff No. 1 naming rates between Fresno and Watsonville, via Santa Cruz (C. R. C. No. 1, issued May 15, 1920, effective May 15, 1920).

Pickwick Stages, Northern Division, Inc., filed with the Railroad Commission on September 15, 1924, its Local Passenger Tariff, C. R. C. No. 26, issued September 13, 1924, effective September 15, 1924, section 3 of such tariff naming rates on the Pacheco division, being the line acquired from the copartnership of Blabon & Cleaveland by the authority contained in Decision No. 14010.

In Supplement No. 1 to C. R. C. No. 26, Local Passenger Tariff of Pickwick Stages, Northern Division, Inc., issued December 15, 1924, effective December 18, 1924, the additional stations of Aptos and Soquel, being intermediate points between Watsonville and Santa Cruz, appear for the first time.

In Supplement No. 2 to Pickwick Stages, Northern Division, Inc., Local and Joint Passenger Tariff, C. R. C. No. 26, supplement being issued January 15, 1925, effective February 15, 1925, the stations of Chittenden Road Junction, Chittenden and Aromas appear as tariff points.

From the evidence in this proceeding and the record of the Commission as shown by applications, decisions and tariff filings as hereinabove stated it is apparent that an enlargement of the operative rights as granted to C. M. Blabon and J. R. Cleaveland under the authority as conveyed by the Commission's Decision No. 7648 on Application No. 5192, as decided May 27, 1920, has been made as regards the establishment of unauthorized intermediate points by tariff filings, the original authority granting operation between Fresno and Santa Cruz serving as intermediate points the communities of Los Banos, Hollister, San Juan and Watsonville, and original tariffs having shown only such points as the intermediate stations to be served. The record herein shows the following unauthorized points to have been added by tariff

filings: Aptos, Soquel, Chittenden Road Junction, Chittenden and Aromas.

The situation here presented is similar to that presented in Application No. 8454, Motor Transit Company, wherein the Commission in its Decision No. 13454, as decided April 22, 1924, made the following comment regarding the unauthorized establishment of intermediate points:

As hereinabove set forth and in accordance with the principle enunciated by this Commission in its Decision No. 9065, of June 7, 1921, on Case No. 1442, *A. B. Watson vs. White Bus Line et al.* (Opinions and Orders, C. R. C., Vol. 20, p. 18), no transportation company, subject to the regulation of this Commission under authority contained in chapter 213 and effective amendments thereto, can enlarge or expand operative rights beyond those existing as of May 1, 1917, or subsequently granted by this Commission by a certificate of public convenience and necessity, unless in accordance with the provisions of the statutory law a certificate of public convenience and necessity has been applied for and thereafter issued by the Commission in an appropriate proceeding. This decision was thereafter sustained by the California Supreme Court on September 19, 1922, by its decision in Case S. F. No. 10099 (64 Cal. Dec. 278). With the establishment of this principle and its affirmation by the California Supreme Court, it is now obvious that no enlargement of operative rights, either as to routes served or expansion of rights for the carriage of property, can be made without a proper showing in an appropriate proceeding resulting in authority as conferred by a certificate of public convenience and necessity. It is equally applicable as regards increase in the scope of operative rights, such as the enlargement of same by the inclusion of additional stations or operative points in territory not specifically covered either by operative right existing as of May 1, 1917, or rights thereafter conferred by certificate. The particular instance as cited as regards express tariff of applicant, Motor Transit Company, is typical of many instances appearing in passenger tariffs where rights beyond those authorized have been included at the time of filing of such tariffs and which are now apparently relied upon by applicant as justifying their existence and continued use.

The rules and regulations as adopted by this Commission under its General Order No. 51, provide the method and procedure under which rates should be filed with this Commission and for the public. These regulations do not and can not change the requirements imposed by the statutory law as to authority required to be obtained by any transportation company desiring to operate over the highways of this state between fixed termini or over a regular route in the carriage of persons or property for compensation.

After full consideration of the record in this proceeding we are of the opinion and hereby find as a fact that defendant Pickwick Stages System, a corporation, has no authority for serving the intermediate points of Aptos, Soquel, Chittenden Road Junction, Chittenden and Aromas or for the conduct of local business between Santa Cruz and Watsonville, and the order herein will provide for a discontinuance of the unauthorized service.

ORDER.

A public hearing having been held on the above entitled complaint, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that Pickwick Stages System, a corporation, immediately discontinue the carriage of passengers locally between the stations of Santa Cruz and Watsonville and withdraw and discontinue all service either locally or as a portion of any through route or through ticketing arrangement as now given to or from the unauthorized stations of Aptos, Soquel, Chittenden Road Junction, Chittenden and Aromas; and

It is hereby further ordered, that said Pickwick Stages System, a corporation, immediately withdraw by appropriate cancellation in accordance with the tariff regulations of this Commission, all tariffs naming rates for the transportation of passengers as now filed for the foregoing unauthorized service covering both local and joint rates or rates to or from said points in which said Pickwick Stages System is a participating carrier.

Dated at San Francisco, California, this fourteenth day of June, 1927.

DECISION No. 18509.

WILLIAM DUELKS,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 2244.

Decided June 14, 1927.

GRADE CROSSING—PROTECTION OF—UNNECESSARY NOISES.—In dismissing the complaint asking abatement of alleged unnecessary noises at the crossing in question, the Commission recommends that the carrier require frequent checks of the operating condition for the reduction of unnecessary noise.

William Duelks, in propria persona, Complainant.
C. W. Cornell, for Defendant.

BY THE COMMISSION.

OPINION.

In this proceeding William Duelks, a resident of Graham, Los Angeles County, complains of defendant Pacific Electric Railway Company, a corporation, alleging that the operation of the railroad of the defendant at Manchester avenue, also known as Graham station, in the county of Los Angeles, is objectionable to said complainant and other residents of Graham by reason of the noise made by crossing bells, train whistles, the explosion of torpedoes, and the ringing of warning gongs. Complainant prays for an order of the Commission requiring defendant to eliminate said alleged unnecessary whistling, ringing of crossing and car gongs, and to install flagmen at the Manchester avenue crossing during the entire 24-hour period of each day.

Defendant duly filed its answer herein, said answer being in effect a general denial of all of the material allegations of the complaint.

A public hearing on the issues presented by this complaint and answer was conducted by Examiner Handford at Los Angeles, the matter was duly submitted and is now ready for decision.

At the hearing complainant withdrew all items of complaint except as to the annoyance occasioned by train whistling and ringing gongs and the ringing of crossing warning bells.

Three witnesses, residing or employed near the Manchester avenue crossing, testified as to the annoyance caused by apparently unnecessary blowing of whistles and ringing of gongs on trains and of noise made by the crossing warning bell, which latter by reason of the frequency of train movement over the Manchester avenue crossing rings at frequent intervals.

E. Clark, superintendent of the Southern Division of defendant Pacific Electric Railway Company, described the highway and train traffic existing at the Manchester avenue crossing; the frequent inspections that had been made of existing conditions and stated that instructions had been issued to trainmen to eliminate unnecessary noise by the use of whistles and gongs at this crossing by restricting the use of audible signals to those which were required to insure safety to the traveling public. Manchester avenue is a regular stopping point for certain scheduled trains, known as Graham station, and to obviate unnecessary whistling motormen have been instructed to discontinue answering the proceed signal of conductor by sounding two short blasts of the train whistle.

The traffic conditions at the Manchester avenue crossing have required such crossing to be protected by an automatic signal and bell, and also by the employment of a human flagman between the hours of 6 a.m. and 10 p.m. In view of the fact that the volume of highway traffic using this crossing has increased since the date of this Commission's Decision No. 11828 on Case No. 1837, as decided March 23, 1923, we are of the opinion and hereby find as a fact that the safety of the public using said highway requires the continued maintenance of the automatic crossing bell.

The complaint herein will be dismissed, but it is recommended that operating officials of defendant Pacific Electric Railway Company require frequent checks of operating conditions at Manchester avenue crossing that the annoyance caused by unnecessary whistling or ringing of train gongs or bells may be reduced to the minimum required by safe train operation.

ORDER.

A public hearing having been held on the above entitled complaint, the matter having been duly submitted, the Commission being now fully

advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that this complaint be and the same hereby is dismissed.

Dated at San Francisco, California, this fourteenth day of June, 1927.

DECISION No. 18510.

IN THE MATTER OF THE APPLICATION OF ROSEVILLE TELEPHONE COMPANY, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE SEATE OF CALIFORNIA AUTHORIZING A CHARGE FOR JOINT USER SERVICE IN CONNECTION WITH BUSINESS COMMERCIAL FLAT RATE PRIVATE BRANCH EXCHANGE SERVICE AND A CHARGE FOR SEMIPUBLIC COIN BOX SERVICE.

Application No. 13793.

Decided June 14, 1927.

RATES—TELEPHONE UTILITY—JOINT USER SERVICE.—Applicant authorized to place in effect rate of \$2.50 a month for each joint user business commercial flat rate P. B. X. service, and also rates for semipublic coin box service in primary rate area of Roseville exchange.

By THE COMMISSION.

ORDER.

Whereas, Roseville Telephone Company has made application to the Railroad Commission for authority to file and make effective a charge for joint user service in connection with business commercial flat rate private branch exchange service and a charge for semipublic coin box service; and

Whereas, it appears that the rendering of the service contemplated in the above rate schedules will meet telephone service requirements of the subscribers of Roseville Telephone Company and of the public, and it appearing that this is not a matter in which a public hearing is necessary;

It is hereby ordered, that Roseville Telephone Company be and it is hereby authorized to charge and collect the rates set forth in Exhibit "A," attached hereto, on and after July 1, 1927, provided such rates be submitted for filing with this Commission on or before June 30, 1927.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourteenth day of June, 1927.

DECISION No. 18517.

IN THE MATTER OF THE APPLICATION OF J. MARTINEZ FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A PUBLIC UTILITY WATER SYSTEM NEAR GARDEN GROVE, ORANGE COUNTY, CALIFORNIA.

Application No. 13663.

Decided June 14, 1927.

CERTIFICATE—WATER UTILITY—RATES.—Certificate granted. Rates established.*J. Martinez, in propria persona.*

BY THE COMMISSION.

OPINION.

In the above entitled application J. Martinez asks for authority to operate a public utility water system to sell and deliver water to the residents of tract number 538, near Garden Grove in Orange County.

A public hearing in the matter was held at Garden Grove before Examiner Williams after all interested parties had been duly notified and given an opportunity to appear and be heard.

The evidence shows that this water system was installed several years ago in connection with the sale of lots in tract number 538. Through ignorance of the law or otherwise, no certificate of public convenience and necessity for the operation of this plant was ever applied for or obtained. During the period of operation, charges ranging from \$1 to \$2 per month have been made for water service. At present, however, and for the last two years, the rate has been \$1.75 flat per month.

The water supply is obtained from a well equipped with a deep-well turbine pump operated by a ten-horsepower motor and is lifted into a 5000-gallon storage tank elevated 16 feet above the surface of the ground. The distribution system consists of two- and three-inch standard screw pipe located on easements at the back of the lots and no franchise was required for the pipe line installation.

The well, pumping equipment, tank and pipe lines are adequate to supply the needs of the present consumers and also to provide reasonably for the requirements of the near future. However, the tank is entirely too low to give proper and satisfactory pressure. Applicant has agreed to raise this tank to a greater elevation and it is expected that this change will be accomplished within the next thirty days.

No one appeared at the hearing to protest against the granting of this application and it therefore appears that the request of applicant should be approved. The rate now in effect on this system is a reasonable rate to be charged for the service rendered under present conditions of operation and will be approved in the following order.

ORDER.

J. Martinez having made application to this Commission as entitled above for a certificate of public convenience and necessity to operate a water system, a public hearing having been held thereon, and the matter having been submitted:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that J. Martinez operate a water system for the purpose of supplying water for domestic purposes to consumers residing in tract number 538, near Garden Grove in Orange County; and

It is hereby ordered, that J. Martinez be and is hereby authorized and directed to file with the Railroad Commission of the State of California within twenty days of the date of this order the following schedule of rates to be charged for all service rendered subsequent to July 1, 1927, subject, however to terms and conditions as hereinafter provided:

Monthly Flat Rate.

House on one lot.....	\$1 75
Each additional house on same lot.....	1 00
Stores	1 75

It is hereby further ordered, that J. Martinez be and is hereby directed to file with the Railroad Commission within thirty days from the date of this order rules and regulations governing the distribution of water to its consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

It is hereby further ordered, that the above schedule of rates shall not become effective unless and until said J. Martinez shall have raised the present storage tank to such a height that the elevation of the bottom thereof shall be a least 35 feet above the present ground surface and shall have provided said tank with a proper roof for protection against contamination and shall have installed a proper wash-out valve and connection in said tank for cleaning and flushing purposes; *provided, further*, that said J. Martinez shall notify this Commission in writing of the date on which the improvements ordered herein have been installed and in proper operating condition.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourteenth day of June, 1927.

DECISION No. 18527.

IN THE MATTER OF THE APPLICATION OF MRS. E. A. BALL (NELLIE S. BALL) FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 13662.

Decided June 20, 1927.

CERTIFICATE—WATER UTILITY—RATES.—Certificate granted. Rates established.

E. A. Ball, for Applicant.

WHITSELL, Commissioner.

OPINION.

In this application Mrs. E. A. Ball asks this Commission for a certificate of public convenience and necessity for the operation of a water system in Weed, Siskiyou County.

A public hearing in this matter was held at Weed after due notice thereof had been given so that all interested parties might appear and be heard.

The testimony shows that Mrs. E. A. Ball is the owner of a water system located within a subdivision known as the "Third Addition to the Morris Tract" in section 26, township 42 north, range 5 west, Mount Diablo base and meridian, adjacent to the unincorporated town of Weed, in Siskiyou County.

The water supply is obtained by pumping from a well located on a lot owned by applicant within the tract, and is distributed to the consumers through mains consisting of two- and one-inch galvanized iron pipe. Pressure is maintained by means of a 525-gallon steel pressure tank. At present there are sixty consumers being served with water for domestic purposes. No other large source of water supply is available.

Applicant has been operating this system for a period of about one year and, although having a franchise for the construction and operation of a water works, obtained from the board of supervisors of Siskiyou County under date of January 4, 1927, has never applied to the Commission for a certificate of public convenience and necessity. The rates charged were filed with this Commission in November, 1926, but were not accepted because no authority had been granted by this Commission for the operation of the system as a public utility.

No one appeared to oppose the granting of the application, and, as there is no other public utility operating in the territory served by applicant and no other water supply available to the consumers, it appears that a certificate of public convenience and necessity should be granted. The rates now being charged on this system are reasonable under the existing conditions of operation and will be established in the order herein.

The following form of order is submitted:

ORDER.

Application having been made to this Commission as entitled above, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed in the matter:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that Mrs. E. A. Ball operate a water system in and in the vicinity of the

Third Addition to the Morris Tract located in section 26, township 42 north, range 5 west, Mount Diablo base and meridian, adjacent to the unincorporated town of Weed, in Siskiyou County, California.

It is hereby ordered, that Mrs. E. A. Ball be and is hereby directed to file with the Railroad Commission of the State of California within thirty days from the date of this order the following schedule of rates to be charged for all water delivered to consumers, effective upon the date of the order herein.

Monthly Flat Rates.

For one house-----	\$1 75
Each additional house or apartment on the same premises-----	1 25
All other uses to be charged for at meter rates.	

Monthly Meter Rates.

500 cubic feet or less-----	\$1 75
500 to 1,000 cubic feet, per 100 cubic feet-----	20
All in excess of 1,000 cubic feet, per 100 cubic feet-----	15

Monthly Minimum Charges.

$\frac{5}{8}$ -inch meter-----	\$1 75
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Each of the foregoing monthly minimum charges will entitle the consumer to the amount of water which that monthly minimum charge will purchase at the "Monthly Meter Rates" set out above.

It is hereby further ordered, that Mrs. E. A. Ball be and is hereby directed to file with the Railroad Commission within thirty days from the date of this order rules and regulations governing the distribution of water to consumers, such rules and regulations to become effective upon their acceptance by this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of June, 1927.

DECISION No. 18528.

IN THE MATTER OF THE APPLICATION OF IVANHOE WATER COMPANY, W. B. MARCH, PROPRIETOR, FOR PERMISSION TO REVISE ITS RATES FOR WATER SERVICE AND ADOPT RULES AND REGULATIONS.

Application No. 13696.

Decided June 20, 1927.

RATES—WATER UTILITY—TO INCREASE.—Application granted.

Bert L. Hughes, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding W. B. March, who owns and operates a public utility water system under the fictitious name and style of Ivanhoe Water Company, supplying water to consumers in Ivanhoe, Tulare County, asks this Commission for authority to increase its rates.

The application alleges in effect that twenty-six consumers are being served at a flat rate of \$1.50 per month and that the resultant income is far below a sufficient sum to pay necessary operating expenses, providing no return on the investment. The applicant therefore asks for an order by the Commission authorizing an increase in rates.

A public hearing was held at Ivanhoe before Examiner Gannon after all interested parties had been duly notified and given an opportunity to appear and be heard.

The water supply for this utility is obtained by pumping from a deep well and is distributed to consumers through a total of about 6100 feet of mains of a maximum size of two inches. Storage is provided by an elevated tank of 6000-gallon capacity. There were thirty-one consumers on the system as of May 1, 1927.

The present rates charged are:

Monthly flat rate-----	\$1 50 per month
Monthly metered rate—	
0 to 10,000 gallons, per 1,000 gallons-----	25 per month
Over 10,000 gallons, per 1,000 gallons-----	20 per month

A report was submitted by P. E. Harroun, one of the Commission's hydraulic engineers, in which he estimated the original cost of the used and useful properties of this system as of May 1, 1927, to be \$3,719 with a corresponding depreciation annuity of \$114, computed by the 5 per cent sinking fund method. The sum of \$528 was recommended as a reasonable cost for the annual maintenance and operating costs for the immediate future. The gross revenues for the year 1926 amounted to \$470. No valuation or estimate of future operating expenses was submitted by applicant and, it appearing that the figures presented by the Commission's engineer are reasonable, such figures will be accepted for the purpose of this proceeding. From the foregoing figures, it is clear that the rates now charged by applicant are insufficient to cover the bare costs of operation and maintenance and that he is therefore entitled to an increase in rates.

From the evidence, it appears that applicant has had eight meters installed on this system for a considerable period of time but, with the exception of one service where the rate charged was agreed to by the consumer, no metered rate has ever been charged. Applicant therefore requests the establishment of a rate for measured service.

The evidence also shows that certain consumers now on a flat rate

basis have used large volumes of water for irrigation purposes. Attention is called to the difficulty of establishing a fair and uniform flat rate for such incidental service. In order to overcome this difficulty, meters should be installed in all cases where such irrigation or other service leads to the use of large volumes of water.

ORDER.

W. B. March, who owns and operates a public utility system under the fictitious name and style of Ivanhoe Water Company, furnishing water to consumers in the town of Ivanhoe for domestic and other purposes, having made application for an increase in rates, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the matter:

It is hereby found as a fact that the rates now charged by W. B. March for water delivered to his consumers are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates for such service.

Basing the order upon the foregoing finding of fact and upon the statements of fact set out in the preceding opinion;

It is hereby ordered, that W. B. March be and he is hereby authorized to file with this Commission within thirty days from the date of this order the following schedule of rates to be charged for water delivered to his consumers in Ivanhoe, Tulare County, on and after the first day of July, 1927:

METER RATES.

Monthly Minimum Charges.

$\frac{5}{8}$ -inch meter	-----	\$1 75
$\frac{3}{4}$ -inch meter	-----	2 00
1- inch meter	-----	2 50
1 $\frac{1}{2}$ -inch meter	-----	3 50

Each of the foregoing monthly minimum charges will entitle the consumer to the quantity of water which that monthly minimum charge will purchase at the following "Monthly Quantity Rates."

Monthly Quantity Rates.

From 0 to 10,000 gallons, per 1,000 gallons	-----	\$0 25
Over 10,000 gallons, per 1,000 gallons	-----	20

FLAT RATE USE.

Monthly Flat Rates.

1. Residences, boarding houses, flats, lodging houses, apartments, etc.		
5 rooms or less	-----	\$1 50
For each additional room	-----	15
Additional for each bath tub	-----	25
Additional for each toilet	-----	25
Additional for each private barn with one head of stock	-----	25
For each additional head of stock	-----	15

2. Sprinkling or irrigation of lawns, gardens, shrubbery, etc.
 From 0 to 3,000 sq. ft., per 100 sq. ft. of surface actually irrigated----- \$0 05
 Over 3,000 sq. ft., per 100 sq. ft. of surface actually irrigated----- 03
3. Stores, shops and offices----- 1 75
4. Ice cream parlors, soft drink establishments, drug stores, billiard parlors,
 either alone or in connection with other business----- 2 00

Meters may be installed at the option of either consumer or utility. If installed by utility, it shall stand the entire expense thereof. If installed at the request of consumer, said consumer shall advance the sum of \$15 to utility to be refunded to such consumer at the rate of 30 per cent of the total monthly water bill of such consumer until the entire amount of the deposit has been refunded. Deposits for meters larger than $\frac{3}{8}$ " x $\frac{1}{4}$ " shall be in like proportion to the cost thereof.

It is hereby further ordered, that W. B. March be and he is hereby directed to file with this Commission within thirty days of the date of this order rules and regulations to govern relations with his consumers, such rules and regulations to become effective upon their acceptance by this Commission.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of June, 1927.

DECISION No. 18531.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES RAILWAY CORPORATION, A CORPORATION, FOR AN ORDER READJUSTING RATES AND ESTABLISHING JUST AND REASONABLE RATES FOR THE TRANSPORTATION OF PERSONS ON THE COMPANY'S LINES IN THE STATE OF CALIFORNIA.

Application No. 13323.

Decided June 20, 1927.

RATES—STREET RAILWAY—EMERGENCY INCREASE.—Finding that applicant is not confronted by an emergency which necessitates the increase of its rates pending a decision on its application to readjust rates, the application for an emergency six-cent fare is denied.

SUPPLEMENTAL APPLICATION FOR INTERIM RATES.

S. M. Haskins and Paul R. Watkins of Gibson, Dunn and Crutcher, for the Applicant.

Jess E. Stephens, City Attorney; *Milton Bryan*, Deputy City Attorney; and *J. D. Ronnow*, Deputy City Attorney, for the City of Los Angeles.

George A. Damon, for City Planning Association.

Carl Bush and E. F. Bogardis, for Hollywood Chamber of Commerce.

W. H. Engel, *in propria persona*.

Olyde Woodworth, City Attorney, for City of Inglewood and City of Hawthorne.

LOUTITT, Commissioner.

OPINION.

On May 17, 1927, Los Angeles Railway Corporation filed, in the above entitled matter, a supplemental application in which it asks permission to immediately increase its rates as set forth in Statement

"H" attached to the supplemental petition as modified by stipulations appearing in the transcript. The proposed schedule of rates is based upon a six-cent basic fare including free transfer privileges and certain adjustments in the company's bus fares, such increased rates to remain in effect until a final decision is entered in this proceeding.

The Los Angeles Railway Corporation filed its application for readjustment of its rates on November 16, 1926. Hearings on such application have been had on the following dates: January 13, May 17, May 18 and May 28. An adjourned hearing is set for August 9th. At the hearing had on May 28th the application for interim rates was taken under submission.

Applicant urges that, pending the final determination of the issues raised by Application No. 13323, it is not earning a fair return on its property devoted to public use and that it is confronted with an emergency which requires an immediate adjustment of its rates. Applicant reports that it is confronted by an emergency in that as of March 31, 1927, its current liabilities amounted to \$11,029,379.06 including loans and notes payable to the amount of \$5,695,807.75 and matured interest unpaid of \$4,468,275; that it is unable to continue to finance itself through open account and must forthwith reorganize its financial structure in order to finance itself and to secure additional capital urgently required through long term bonds issued under proper mortgages; that it is engaged on a three-year construction program which calls for a minimum expenditure of \$6,000,000; that it can not go forward with this program unless additional revenue is provided; that under existing rates it has not during 1926 and can not during the present year earn its present fixed charges, making impossible any refinancing until the present emergency is met; that for the last two years by reason of its inability to earn a fair return it has been permanently and irreparably damaged to an amount of not less than \$4,000,000 and will be damaged during the present year to an amount of not less than \$2,750,000, and that the interests of the public are being jeopardized by the fact that applicant can not install the improvements required by the growth of the city of Los Angeles.

It is urged by applicant that long and protracted investigations have been made of its affairs by Commission and city engineers and that it has submitted a full and complete case showing that it is entitled to an immediate increase in rates.

Applicant's current liabilities in the main represent expenditures for additions and betterments. The fact that it has \$4,468,275 of unpaid interest does not mean that such interest was not earned. In Exhibit 32 applicant shows a credit to profit and loss of \$1,310,301.57. As to the damage that applicant reports it has suffered during the past two

years and which it says it will suffer during the present year, that is dependent upon what is a proper rate base, a proper rate of return, a proper allowance for operating expenses and depreciation. In other words, a determination of the extent to which applicant has been damaged, if at all, requires a determination of the major issues in this proceeding. As to the 1927 loss, applicant in its original supplemental petition, Statement "F," shows a return of \$691,882. At the hearing had on May 17-18, it developed that applicant had duplicated its depreciation charges. When its attention was called to that fact it withdrew Statement "H" and substituted Exhibit 45-a, which shows a return of \$970,083.

Exhibit 45-a and other financial exhibits have been examined by me and accepting for the purpose of this decision applicant's estimated operating expenses for 1927, I find that it will have available after the payment of operating expenses (excluding depreciation), taxes, interest and sinking funds, the sum of \$847,400. If it were decided that the sinking fund payment, other than the interest on the bonds held alive in the sinking funds, constitutes the refunding of a capital obligation and therefore should not be paid out of earnings the sum of \$234,300 should be added to the \$847,400, making a total of \$1,081,700 available for depreciation. An analysis of the company's records shows that the largest amount it ever charged to depreciation reserve because of the retirement of property was \$759,290. There is nothing in the record to show what the charges to the depreciation reserve will be during 1927. While Exhibit 41 shows the amount that will be charged to operation and depreciation on account of the three-year construction program, such amount was not segregated between charges to maintenance accounts and depreciation reserve. Neither is there any satisfactory explanation in the record of the material increase in the company's operating expenses from 1923 to date.

I have reviewed the evidence submitted by applicant in so far as it relates to the supplemental application referred to herein and in my opinion applicant is not confronted by an emergency which necessitates the increase of its rates, pending a decision on its application to readjust rates. The adjourned hearing is set for August ninth and it is expected that the application can be taken under submission at the conclusion of that hearing.

I herewith submit the following form of order:

ORDER.

Los Angeles Railway Corporation having filed a supplemental application in the above entitled matter for permission to increase its rates which are to continue in effect until a final decision is entered in this

matter (Application No. 13323), and the Commission having considered the evidence submitted by applicant in support of such request and being of the opinion that Los Angeles Railway Corporation is not confronted by an emergency which warrants an increase in its rates pending said final decision and that therefore the supplemental application should be denied; therefore,

It is hereby ordered, that the supplemental application filed by Los Angeles Railway Corporation on May 17, 1927, in Application No. 13323 be and the same is hereby denied without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of June, 1927.

DECISION 18532.

LOS ANGELES AND SAN PEDRO TRANSPORTATION COMPANY

vs.

RICHARDS TRUCKING AND WAREHOUSE COMPANY.

Case No. 1819.

Decided June 20, 1927.

MOTOR CARRIER—FREIGHT TRUCKS—ILLEGAL OPERATION.—Finding that defendant has no authority to operate an auto truck line as a common carrier of property between Los Angeles and Wilmington, via the Harbor boulevard, nor for serving San Pedro, or the Los Angeles harbor district, except as to service to Wilmington from Long Beach, as an extension of its service between Los Angeles and Long Beach, via Long Beach boulevard, the Commission orders the unauthorized service discontinued, and the rates now on file with the Commission for such service canceled.

Harry N. Blair, for Complainant.

O. H. Tribitt, Jr., for Defendant.

A. B. Roehl, for American Railway Express Company, Intervener.

BY THE COMMISSION.

OPINION.

Los Angeles and San Pedro Transportation Company, a corporation, by its amended complaint herein alleges that defendant Richards Trucking and Warehouse Company, a corporation, is the successor in interest to Thomas Richards, an individual doing business under the fictitious name of Thomas Richards Motor Express; that said Thomas Richards filed a tariff with the Railroad Commission as of May 1, 1917, being C. R. C. No. 3, effective March 8, 1919, naming rates for the transportation of freight between Los Angeles, Huntington Park, Vernon, Lynwood, Long Beach and Wilmington; that subsequent to the filing of said tariff said Thomas Richards did not operate a freight line in

accordance with the provisions of the aforesaid tariff filing; that by such failure of Thomas Richards to operate in accordance with tariff provisions the right to operate has been abandoned without authority of this Commission; that the inclusion in the tariff of rates to Wilmington via Long Beach was an attempt by the predecessor of defendant to secure an expansion of operative rights by a tariff filing; that the service rendered by the predecessor of defendant on May 1, 1917, consisted of the transportation of newspapers from Los Angeles to Long Beach; and that the present transportation of all freight as a common carrier is in violation of law in that the right of defendant to operate as a transportation company is fixed by the service rendered by defendant's predecessor as of May 1, 1917.

Complainant further alleges that defendant is now engaged in the transportation of freight by motor trucks, as a common carrier, for compensation, over the public highways and over a regular route between the business center of Los Angeles and the harbor districts of said city at Wilmington and San Pedro; that defendant is now unlawfully engaged in the transportation of freight between Los Angeles and Wilmington by reason of no rates applicable to the route traversed being filed with this Commission; that defendant has expanded its operative rights between the business section of the city of Los Angeles and the harbor district of said city at Wilmington by including the harbor district at San Pedro; that such expansion exceeds the proffer of service as contained in original tariffs filed by defendant's predecessor which did not propose service between Los Angeles and San Pedro; and that defendant is now unlawfully engaged in such transportation.

Complainant prays for an order of the Commission requiring defendant to discontinue the transportation of property by auto trucks between Wilmington-San Pedro and Los Angeles as a common carrier, for compensation; and to cease and desist from said alleged illegal operation.

A public hearing on this complaint was conducted by Examiner Handford at Los Angeles at which time evidence was received, and the matter was duly submitted for decision.

J. O. Ernest, a witness for complainant, testified he was employed as a driver for the Thomas Richards Express in 1917, operating over a route to Santa Ana; that in November, 1918, he operated as a driver for the same employer on the route between Los Angeles and Long Beach, said route leaving the Los Angeles terminal of the Richards Express via a route from Jefferson street to Central avenue, or over Thirty-eighth street to Santa Fe avenue, thence over Slauson avenue to Long Beach boulevard and over said boulevard to the city of Long Beach.

T. E. Marr, a witness for complainant, testified he was employed as a freight and claim agent by complainant; that his first knowledge of the operation of defendant between Los Angeles and Wilmington was in April, 1922; that service was furnished by his company upon the request of Thomas Richards in the transportation of freight for the Richards line between Wilmington and Los Angeles during the period December 11, 1920, to April 29, 1921, a total of 5 shipments consigned to Schilling Company, Los Angeles, aggregating a weight of 23,395 pounds; and that drivers of his company had reported observing the trucks of defendant operating between Wilmington and Los Angeles via Main street boulevard.

Harry N. Blair, a witness for complainant, testified regarding an investigation made of the operation of the Thomas Richards line between Wilmington and Los Angeles; that prior to April 1, 1922, there was no operation direct between such points; that one customer, the Pacific Tank and Pipe Company, was served between Wilmington and Long Beach, and occasionally between Los Angeles and Wilmington, via Long Beach; that the service for the Pacific Pipe and Tank Company was first rendered in 1918, and was continued until 1920, the service being rendered via the Anaheim road to the plant of the pipe company then located at the northerly portion of the east basin of Wilmington harbor or approximately two to two and one-half miles from the business district or wharves at Wilmington.

W. F. Lemon, assistant service inspector of the Commission, called as a witness for defendant, testified that he made an investigation in the year 1919 to ascertain the scope of the Thomas Richards operation as regards the serving of Wilmington, such investigation developing that no operation had been made to Wilmington on any definite schedule, although it had been the practice to operate into Wilmington through Long Beach frequently whenever traffic was offered to or from Wilmington, the operation always being via Long Beach.

Defendant, by its counsel, submitted the matter on the showing appearing in the tariffs of defendant as filed with the Commission and by stipulation the records of the Commission as contained in applications and decisions thereon affecting the territory under investigation were to be considered.

Thomas Richards, operating under the fictitious name of Thomas Richards Express, was the predecessor in interest to Richards Trucking and Warehouse Company, defendant herein. The files of the Commission show that on April 16, 1917, prior to the effective date of chapter 213, statutes of 1917, Mr. Richards advised he was operating a daily service in Los Angeles and Orange counties, and requested information regarding the law as applicable to his business. The Commission advised Mr. Richards, on April 18, 1917, that the proposed law

was not then effective and that when same was operative he would be advised regarding its provisions. Under date of February 14, 1919, Mr. Richards was requested by the Commission to file tariffs covering his operations, and on May 12, 1919, tariffs were filed covering operation over three routes: between Los Angeles and Orange County points; between Los Angeles, Pasadena, South Pasadena, Lamanda Park and Arcadia; and between Los Angeles, Huntington Park, Vernon, Lynwood, Long Beach and Wilmington. The tariff covering the route herein considered was Local Freight Tariff No. 3, C. R. C. No. 3, issued March 8, 1919, effective March 8, 1919, and received for filing by the Commission on May 12, 1919.

By its Decision No. 10033, on Application No. 7355, as decided January 30, 1922, Thomas Richards was authorized to transfer his operative rights to Richards Trucking and Warehouse Company, a corporation, the order providing, among other things, the following:

Thomas Richards, operating under the fictitious name of Thomas Richards Motor Express, shall cancel immediately all time schedules, tariffs, rates and classifications at present on file with the Railroad Commission, and Richards Trucking and Warehouse Company shall file immediately new time schedules, tariffs, rates and classifications, or adopt as its own the time schedules, tariffs, rates and classifications heretofore filed by Thomas Richards, all schedules, tariffs, rates and classifications to be identical with those heretofore filed by Thomas Richards, such cancellations and filings to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

Based on the authority contained in the Commission's Decision No. 10033, Richards Trucking and Warehouse Company filed on February 28, 1922, its tariff showing Local Freight Rates, C. R. C. No. 1, issued February 27, 1922, effective March 1, 1922, section 3 thereof naming rates between Los Angeles, Pasadena, Huntington Park, Vernon, Lynwood, Long Beach, Wilmington and intermediate points.

On June 22, 1922, Richards Trucking and Warehouse Company filed its tariff publishing proportional freight rates between Los Angeles and Wilmington, C. R. C. No. 2, issued June 16, 1922, effective June 22, 1922, applying only on shipments received from or delivered to steamship wharves. On October 23, 1923, Richards Trucking and Warehouse Company filed its tariff publishing proportional rates between Los Angeles, Wilmington and San Pedro, C. R. C. No. 3, issued September 29, 1923, effective October 3, 1923. No authority was ever obtained for the extension of service to San Pedro.

On May 31, 1924, Richards Trucking and Warehouse Company filed its tariff publishing proportional freight rates between Los Angeles and Los Angeles harbor district applying only on shipments received from or delivered to steamship wharves. No authority was ever obtained for the extension of service to the Los Angeles harbor district, Wilmington being the only point authorized to be served.

We have fully considered the record in this proceeding and it appears defendant has expanded its operative rights to include routes and points for which no authority exists by reason of operation as of May 1, 1917, by Thomas Richards, predecessor to defendant herein, as by certificate of public convenience and necessity being granted to defendant or its predecessor since May 1, 1917. The record shows the original operations to Wilmington to have been from Long Beach as an extension of the route between Los Angeles and Long Beach via Long Beach boulevard. Defendant has no authority to operate from Los Angeles to Wilmington via Harbor boulevard, nor to serve San Pedro or Los Angeles harbor district other than Wilmington, which must be served via Long Beach.

There is here presented an attempted enlargement of operative rights by tariff filings instead of by compliance with the statutory law and the securing of a certificate of public convenience and necessity as provided by the statute. The Commission has heretofore considered such a condition in its Decision No. 13454, on Application No. 8454, as decided April 22, 1924 (Opinions and Orders, 26 C. R. C. 807), in which appears the following comment:

In accordance with the principle enunciated by this Commission in its Decision No. 9065, of June 7, 1921, on Case No. 1442, *A. B. Watson vs. White Bus Line et al.* (Opinions and Orders, C. R. C., Vol. 20, p. 18), no transportation company, subject to the regulation of this Commission under authority contained in chapter 213, and effective amendments thereto, can enlarge or expand operative rights beyond those existing as of May 1, 1917, or subsequently granted by this Commission by a certificate of public convenience and necessity unless in accordance with the provisions of the statutory law a certificate of public convenience and necessity has been applied for and thereafter issued by the Commission in an appropriate proceeding. This decision was thereafter sustained by the California Supreme Court on September 19, 1922, by its decision in Case S. F. No. 10099 (64 Cal. Dec. 278). With the establishment of this principle and its affirmation by the California Supreme Court, it is now obvious that no enlargement of operative rights, either as to routes served or expansion of rights for the carriage of property, can be made without a proper showing in an appropriate proceeding resulting in authority as conferred by a certificate of public convenience and necessity. It is equally applicable as regards increase in the scope of operative rights, such as the enlargement of same by the inclusion of additional stations or operative points in territory not specifically covered either by operative right existing as of May 1, 1917, or rights thereafter conferred by certificate. The particular instance as cited as regards express tariff of applicant, Motor Transit Company, is typical of many instances appearing in passenger tariffs where rights beyond those authorized have been included at the time of filing such tariffs and which are now apparently relied upon by applicant as justifying their existence and continued use.

The rules and regulations as adopted by this Commission under its General Order No. 51, provide the method and procedure under which rates should be filed with this Commission and for the public. These regulations do not and can not change the requirements imposed by the statutory law as to authority required to be obtained by any transportation company desiring to operate over the highways of this state between fixed termini or over a regular route in the carriage of persons or property for compensation.

After full consideration we hereby conclude and find as a fact that defendant Richards Trucking and Warehouse Company, a corporation,

has no authority for the operation of an automobile truck line as a common carrier of property, for compensation, between Los Angeles and Wilmington via the Harbor boulevard, nor for serving San Pedro or the so-called Los Angeles harbor district, except as to service to Wilmington from Long Beach as an extension of defendant's service between Los Angeles and Long Beach via Long Beach boulevard.

ORDER.

A public hearing having been held on the above-entitled complaint, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusion and finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that Richards Trucking and Warehouse Company, a corporation, immediately cease the operation of trucks as a common carrier, for compensation, between Los Angeles and Wilmington or the Los Angeles harbor district via Harbor boulevard, and operation between Long Beach and San Pedro or Los Angeles harbor district, other than Wilmington, either as to local service between such points or as an extension of its route between Los Angeles and Long Beach via Long Beach boulevard; and

It is hereby further ordered, that said Richards Trucking and Warehouse Company, a corporation, immediately cancel in accordance with the Commission's tariff rules and regulations all tariffs now filed covering service to points to which service is hereinabove ordered discontinued.

Dated at San Francisco, California, this twentieth day of June, 1927.

DECISION No. 18534.

CITY OF HUNTINGTON PARK, A MUNICIPAL CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A RAILROAD CORPORATION.

Case No. 2188.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO PROTECTION, CONSTRUCTION, ALTERATION AND NECESSITY FOR THE CROSSINGS OF THE TRACK OF SOUTHERN PACIFIC COMPANY AT SATURN AVENUE, LYFORT AVENUE AND IRVINGTON AVENUE, IN THE CITY OF HUNTINGTON PARK, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA.

Case No. 2209.

Decided June 20, 1927.

COMMISSION'S INVESTIGATION—GRADE CROSSING—To IMPROVE.—Irvington avenue crossing of Southern Pacific Company's tracks in city of Huntington Park ordered improved with grade of approaches from Harbor Truck boulevard and

Irvington avenue to the east of the railroad tracks of not exceeding 4 per cent. Automatic flagman ordered installed. Cost of improvement and signal apportioned to the railroad company, the city and the county of Los Angeles in the ratio of 50 per cent to the railroad company, and 25 per cent each to the other two. Lyfort avenue crossing ordered closed when improvement of Irvington avenue crossing is completed.

A. A. *Trippel* and C. B. *Hubbard*, for the City of Huntington Park.
H. W. *Hobbs* and C. W. *Cornell*, for Southern Pacific Company.
John R. *Berryman, Jr.*, for Los Angeles County Grade Crossing Committee.
R. C. *McAllister*, for the County of Los Angeles.
Chandler, *Wright and Ward*, for Robert Cohen and Company.

WHITSELL, *Commissioner*.

OPINION.

The above entitled proceedings involve, in a general way, the grade crossing situation of the various intersecting highways between Slauson avenue on the north and Florence avenue on the south with Southern Pacific Company's "San Pedro Branch" through the city of Huntington Park, Los Angeles County, California.

Case No. 2188 was filed with the Commission October 30, 1925, wherein the city of Huntington Park asked the Commission to make its order declaring various existing crossings over the railroad as public crossings and to require Southern Pacific Company to lower its tracks so as to make easy grades of approach at the Irvington avenue and Lyfort avenue crossings, respectively.

Case No. 2209 was instituted on the Commission's own motion January 15, 1926, to determine the proper treatment at the Irvington, Lyfort and Saturn avenue crossings, respectively.

A public hearing was held in Case No. 2188 January 8, 1926, and consolidated hearings on Cases Nos. 2188 and 2209 were held on February 9, March 9, April 30 and December 15, 1926, at Los Angeles, California, it being stipulated at the hearing had on February 9th that the two cases might be consolidated for hearing and decision.

The railroad involved herein is Southern Pacific Company's main line to the harbor and is commonly called the "San Pedro Branch." Service to the Santa Ana district is also rendered over this line. The evidence shows that this is the shortest railroad route between Los Angeles and the harbor and that the tonnage on this line is constantly increasing. There are normally twelve freight train movements over this line per day.

This railroad passes through the city of Huntington Park in a north and south direction. The west line of the right of way marks the boundary between the city of Huntington Park and the unincorporated portion of the county of Los Angeles.

Harbor Truck boulevard, which is an extension of Alameda street to the south of the city of Los Angeles and is commonly called Alameda street, is located parallel to and immediately west of the railroad right

of way and is an important paved county highway which carries a large proportion of vehicular traffic between Los Angeles and the harbor.

The grade crossings referred to herein are located between Slauson avenue and Florence avenue, both of which are important east and west highway arteries situated approximately one mile apart. There are four grade crossings over the said "San Pedro Branch" between these two major highways at the following streets, beginning at the north end: Belgrave, Irvington, Lyfort and Saturn avenues. The respective distances between each of these crossings, measured in a southerly direction from Slauson avenue, is approximately as follows: 750 feet, 2000 feet, 800 feet, 950 feet and 750 feet.

Irvington avenue is the most important of any of the four highways which now cross the railroad between Slauson and Florence avenues and is situated approximately midway between the two. If the plans of the Los Angeles County Regional Planning Commission are carried out, Irvington avenue will become a link in a through east and west highway artery as it connects with Baker avenue to the east of Huntington Park and to the west of Harbor Truck boulevard there is a connection planned between Irvington avenue and Merrill avenue. Baker avenue is now an important paved county highway extending east from Huntington Park through the town of Bell and terminating at Rinconada, while Merrill avenue extends west from Huntington Park, terminating in the Inglewood district. As testified to by Hugh R. Pomeroy, secretary of the Los Angeles County Regional Planning Commission, "It may be that Irvington avenue will be regarded as a major rather than a secondary highway and as such will require widening to 100 feet, 70 feet between curbs."

It appears that if and when the so-called Irvington avenue project is effected as planned by the Los Angeles County Regional Planning Commission or some comparable scheme, the grade crossing of this highway with Southern Pacific tracks will justify the expense of a grade separation. While no definite plans or estimates were presented, a number of witnesses testified that in their opinion the most economical method of effecting such a grade separation would be by means of constructing the highway under the railroad.

The evidence shows that the crossings at both Irvington avenue and Lyfort avenue have steep grades of approach. At the Irvington avenue crossing there is a rise of about 2.5 feet in 12 on the west side of the railroad and about 3 feet in 20 on the east side, while at the Lyfort avenue crossing the rise is about 3 feet in 12 on the west side and about 3 feet in 30 on the east side. These excessive grades of approach create a hazardous condition and can be reduced by lowering the tracks, by raising the grades of the adjacent highways or a com-

bination of both. In the complaint of the city of Huntington Park, Case No. 2188, it is proposed to provide light grades of approach by lowering the tracks for a distance of about 3300 feet, while Southern Pacific Company, the county of Los Angeles and the Commission's engineers recommended that the grades of approach at Irvington avenue be reduced by raising the adjacent highways and that the grade crossing at Lyfort avenue be closed for want of sufficient public necessity to justify the expenditure that would be necessary to reduce the approach grades at this crossing.

Various estimates were presented to show the cost of carrying out the respective plans. City of Huntington Park's Exhibit "F" shows the estimated cost of lowering the track to be \$27,792. The city of Huntington Park filed a copy of a contractor's bid (Franklin B. Gridley) of \$28,000 for lowering the tracks. Instructions to the bidders show that Southern Pacific Company is to furnish all necessary ballast f.o.b. on the job and pay \$500 toward protection of traffic and also bear engineering expenses up to a sum not to exceed \$600.

W. L. Raven, engineer for Southern Pacific Company, testified that it would cost \$59,450 to lower the tracks under traffic and \$47,300 not under traffic. Commission's Exhibit No. 1, presented by J. G. Hunter, one of the Commission's engineers, shows the estimated cost of lowering the track, as proposed in city of Huntington Park's Exhibit "B," to be \$43,407 and to lower the track to approximately the level of Alameda street at Irvington and Lyfort avenues would cost \$45,009.

One item which contributes to a material difference in the above estimates is the unit cost applied for earth excavation, the city of Huntington Park using 50 cents per yard, the Commission's engineers suggesting 75 cents per yard and Southern Pacific Company's estimates being based upon \$1 per yard.

The cost of constructing the crossing over Southern Pacific Company's 62.5-foot right of way, involving 3 tracks, at Irvington and Lyfort avenues, respectively, is not included in any of the above estimates. The Commission's Exhibit No. 1 shows the estimated cost of constructing a creosoted plank crossing at either of these highways to be approximately \$2,000.

O. F. Cooley, assistant county road commissioner, Los Angeles County, testified that the county engineers estimated it would cost approximately \$11,000 to construct a good grade crossing over the tracks at Irvington avenue by raising both Harbor Truck boulevard and Irvington avenue east of the railroad to the approximate present level of the rails, this figure including a paved crossing over the railroad right of way. None of the above estimates include allowance for property damage or any special protective device for grade crossings.

Los Angeles County Exhibit No. 1 shows a plan for the improvement of the grade crossing at Irvington avenue, whereby the pavement on Irvington avenue is raised from a point about 80 feet east of the east line of the railroad right of way to meet the level of the present main track. This plan requires a fill of about 2.5 feet at the east line of the railroad right of way. The grade of approach in this plan is 4 per cent on Irvington avenue and $1\frac{1}{2}$ per cent on Harbor Truck boulevard on each side of Irvington avenue.

E. B. Lowe, a realtor of Huntington Park, testified that if Irvington avenue is raised for a distance of 150 feet east of the railroad with a fill of 3.6 feet at the east line of the railroad right of way, the damage to property on Irvington avenue would amount to \$6,000. This sum would provide for 20-foot driveways along each side of Irvington avenue for the entire length of the fill.

The Lyfort avenue crossing was authorized by the Commission's Decision No. 4099, dated February 5, 1917, in Application No. 2735. Condition (3) in this order provides that the grades of approach shall not exceed 6 per cent. This condition is not now complied with as these grades of approach are in excess of 20 per cent for a short distance. It appears that Lyfort avenue is an unpaved local street and the volume of traffic crossing the railroad at this grade crossing is small. As shown above, the distance between the Irvington avenue crossing and that of Lyfort avenue is about 800 feet. Regent street is the first highway to the east of the railroad which affords a connection between Irvington avenue and Lyfort avenue. It is located about 150 feet from the railroad at Lyfort avenue and about 300 feet at Irvington avenue. There is a preponderance of evidence in the record to show that with a good crossing over the railroad at Irvington avenue, public convenience and necessity will not justify the expense of improving the Lyfort avenue crossing as it should be, and that unless this crossing is improved, the hazard existing under its present condition leads to the conclusion that it should be closed. It is my recommendation that an appropriate order be issued in Application No. 2735 annulling the authorization for this grade crossing and directing the railroad to close it.

After due consideration of the evidence in these proceedings, it appears that the grade crossing at Irvington avenue should be improved by raising the grades of the adjacent highway to the approximate level of the present main tracks and that this grade crossing should be protected by an automatic flagman. This conclusion is supported by the facts that this plan will provide a good crossing at considerable less cost than would obtain if the tracks were lowered and will best coordinate with a grade separation at this location, if at a later date

such a project is undertaken. It also appears proper that when the crossing at Irvington avenue is improved, the crossing at Lyfort avenue should be abandoned and effectively closed, as the traffic on this highway will not be seriously inconvenienced if required to use one of the adjacent crossings. While there was some evidence introduced to show that public convenience and necessity do not justify the continuance of the grade crossing at Saturn avenue, which is located about 1750 feet south of Irvington avenue, the showing does not appear to justify an order directing that this crossing be closed at this time. The record shows that the grades of approach at this crossing, while unimproved, are practically level and the crossing involves only the two main line tracks.

As for the division of cost of improving the Irvington avenue crossing, it seems equitable that this expense should be borne as follows: 50 per cent by Southern Pacific Company, 25 per cent by county of Los Angeles and 25 per cent by the city of Huntington Park.

The following form of order is recommended:

ORDER.

Public hearings having been held in the above entitled proceedings, the Commission being apprised of the facts, the matters being under submission and ready for decision;

It is hereby ordered, that Southern Pacific Company be and it is hereby directed to improve the grade crossing of Irvington avenue with its tracks in the city of Huntington Park, Los Angeles County, California, by causing to have raised the surface of Harbor Truck boulevard and Irvington avenue to the east of the railroad in such a manner that approaches can be constructed on grades to this crossing not to exceed 4 per cent, and substantially in accordance with the plan shown by Los Angeles County's Exhibit No. 1 filed in this proceeding.

Said crossing shall be improved in accordance with the following conditions:

(1) The cost of improving said crossing of Irvington avenue, as herein ordered, including an automatic flagman, shall be borne 50 per cent by Southern Pacific Company, 25 per cent by the county of Los Angeles and 25 per cent by the city of Huntington Park. The cost of maintenance of that portion of said crossing up to lines two feet outside of the outside rail shall be borne by the city of Huntington Park. The cost of maintenance of that portion of said crossing between lines two feet outside of the outside rails shall be borne by Southern Pacific Company. No portion of the cost herein assessed to the city of Huntington Park or the county of Los Angeles for the construction or maintenance of said crossing shall be assessed in any manner whatsoever

to the operative property of Southern Pacific Company. The cost of maintenance of said automatic flagman shall be borne by Southern Pacific Company.

(2) Applicant shall, within thirty days thereafter, notify this Commission, in writing, of the completion of the installation of said crossing.

(3) The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

It is hereby further ordered, that the above entitled cases in so far as they involve Saturn avenue be and they are hereby dismissed without prejudice.

It is hereby further ordered, that upon the completion of the improvement of the Irvington avenue crossing as directed in this decision, the public crossing over Southern Pacific Company's tracks at Lyfort avenue in the city of Huntington Park, Los Angeles County, California, be effectively closed to public travel, and upon the completion of the said improvement of Irvington avenue, said Southern Pacific Company is hereby directed to construct the necessary barriers to effectively and adequately close the said Lyfort avenue crossing. The expense of closing of said crossing shall be borne by the Southern Pacific Company.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this twentieth day of June, 1927.

DECISION No. 18535.

IN THE MATTER OF THE APPLICATION OF HUNTINGTON PARK FOR
PERMISSION TO CONSTRUCT LYFORT AVENUE AT GRADE ACROSS
THE TRACK OF THE SOUTHERN PACIFIC COMPANY AT HUNTING-
TON PARK, LOS ANGELES COUNTY, CALIFORNIA.

Application No. 2735.

Decided June 20, 1927.

GRADE CROSSING—TO ESTABLISH—PERMISSION REVOKED.—Authority for Lyfort avenue crossing in the city of Huntington Park revoked and crossing ordered closed in conformity with provisions of Decision No. 18534.

BY THE COMMISSION.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

FIRST SUPPLEMENTAL ORDER.

From Railroad Commission's Decision No. 18534, rendered date of June 20, 1927, in Cases Nos. 2188 and 2209, dealing with grade crossing situation between Slauson avenue and Florence in the city of Huntington Park, with respect to Southern Pacific Company's "San Pedro Branch," and from the record in those cases it appears that the crossing of Lyfort avenue with the tracks of the Southern Pacific Company in the city of Huntington Park, as authorized by the Commission's Decision No. 4099, dated February 15, 1917, in Application No. 2735, is in a hazardous condition, due to steep grades of approach; that this crossing is not constructed in accordance with condition (3) of the order in said Decision No. 4099, which provides that the crossing shall be constructed with grades of approach not exceeding 6 per cent, inasmuch as the present grades of approach over short distances are in excess of 20 per cent; that public convenience and necessity for the continuation of this crossing do not justify the expense necessary to establish a safe crossing at this location, and that with a good crossing over the railroad at Irvington avenue, about 800 feet to the north of Lyfort avenue, it will not seriously inconvenience the traffic now using the Lyfort avenue crossing to cross the railroad at Irvington avenue or one of the other adjacent crossings.

From the evidence now before the Commission, it appears proper that this grade crossing should be closed. Exercising the revision authorized in condition (4) in the order in said Decision No. 4099, it appears to the Commission that in the interest of the public, the authority granted for this crossing should be revoked, and the crossing effectively closed to public travel.

It is hereby ordered, that Commission's Decision No. 4099, dated February 15, 1917, in Application No. 2735 granting the authority for a public crossing over Southern Pacific Company's tracks at Lyfort avenue in the city of Huntington Park, Los Angeles County, California, be and it is hereby revoked and the application dismissed without prejudice.

It is hereby further ordered, that the said crossing be closed at once and in the manner prescribed in Railroad Commission's Decision No. 18534, dated June 20, 1927, in Cases No. 2188 and No. 2209.

The effective date of this order shall be ten days from the date of its issuance.

Dated at San Francisco, California, this twentieth day of June, 1928.

DECISION No. 18542.

IN THE MATTER OF THE APPLICATION OF CHARLES B. JACKSON FOR
AUTHORITY TO TRANSFER THE ELECTRIC SYSTEM AND
PROPERTIES OWNED BY HIM TO PEOPLES CALIFORNIA HYDRO-
ELECTRIC CORPORATION, A CORPORATION, AND OF PEOPLES

CALIFORNIA HYDRO-ELECTRIC CORPORATION FOR AUTHORITY TO BUY SAID ELECTRIC SYSTEM AND PROPERTIES AND TO ISSUE SHARES OF ITS CAPITAL STOCK OF THE PAR VALUE OF THIRTY-SIX THOUSAND FOUR HUNDRED DOLLARS AND ITS FIRST MORTGAGE BONDS OF THE FACE AMOUNT OF EIGHTY-FIVE THOUSAND DOLLARS.

Application No. 13744.

Decided June 25, 1927.

TRANSFER—ELECTRIC UTILITY—SECURITIES—To ISSUE.—Charles B. Jackson authorized to transfer to Peoples California Hydro-Electric Corporation the Jensen Electric System in Modoc County, California, and Lake County, Oregon, and the latter corporation is authorized to issue \$36,400 of stock, and \$48,000 of first mortgage 5½ per cent bonds in payment therefor. Application denied in so far as it involves \$37,000 of bonds.

Goodfellow, Bells and Orrick, by *T. W. Dahlquist*, for Applicants.

BY THE COMMISSION.

OPINION.

In the above entitled matter the Railroad Commission is asked to make an order authorizing Charles B. Jackson to transfer an electric system and properties to Peoples California Hydro-Electric Corporation, and authorizing Peoples California Hydro-Electric Corporation to acquire said system and properties and to issue in payment \$36,400 of its common capital stock and \$85,000 of its first mortgage 5½ per cent bonds.

It appears that Charles B. Jackson is the owner of record of an electric system used in supplying electricity for light, heat and power purposes in Modoc County, California, and in Lake County, Oregon. The properties include 281 acres of land, two small hydro-electric plants and one steam plant, of an aggregate generating capacity of 315 k.w., a copper transmission line from the generating plants to Lakeview, Oregon, and Fair Port, California, and distributing systems in Lakeview, Fair Port and New Pine Creek. Approximately 325 consumers are served, substantially all of whom reside in Oregon. The generating plants, however, are all located in California and a few consumers reside in this state.

The revenues and expenses of the system for the last three years are reported in the application as follows:

<i>Item</i>	<i>1924</i>	<i>1925</i>	<i>1926</i>
Operating revenue.....	\$18,487 66	\$23,140 77	\$25,248 65
Operating expenses.....	15,276 26	14,921 71	15,514 55
Net revenues	\$3,211 40	\$8,219 06	\$9,732 10
Deductions—			
Depreciation	\$2,232 01	\$2,306 65	\$2,308 86
Federal taxes	13 82	17 67	19 42
Total	\$2,245 83	\$2,324 32	\$2,328 28
Net income	\$965 57	\$5,894 74	\$7,403 82

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Appraisals of the properties involved in this proceeding have been made by Day and Zimmerman and by James R. Thompson, a consulting engineer of Portland, Oregon. No oral testimony was introduced in support of the Day and Zimmerman valuation. James R. Thompson was called as a witness in this matter and testified concerning the figures appearing in his valuation. The summaries of these figures are as follows:

<i>Classification</i>	<i>Cost of reproduction new</i>	<i>Condition per cent</i>	<i>Cost of reproduction new, less depreciation</i>
Organization -----	\$3,129 00	80	\$2,433 00
Franchises -----	1,045 00	80	811 00
Lands -----	20,825 00	100	20,825 00
Buildings -----	3,914 00	60	2,348 00
Hydro-electric generation-----	21,393 00	77	16,626 00
Steam electric generation-----	5,013 00	77	3,867 00
Hydro-electric generation-----	6,220 00	80	4,970 00
Transmission-----			
Poles and fixtures-----	5,923 00	40	2,368 00
Copper -----	4,873 00	40	3,375 00
Distribution-----			
Poles and fixtures-----	3,462 00	60	2,125 00
Copper -----	2,928 00	79	2,342 00
Transformers -----	4,560 00	80	3,648 00
Meters -----	4,005 00	80	3,220 00
General equipment -----	3,801 00	50	1,901 00
Items of additional cost 20 per cent -----	17,383 00	77	13,523 00
Total physical property----	\$108,472 00	77	\$84,382 00
Materials and supplies on hand---	2,267 00	100	2,267 00
Cost of financing at 8 per cent----	8,859 00	78	6,932 00
Fair allowance for going value----	5,000 00	100	5,000 00
Total property and business	\$124,598 00	79	\$98,581 00

We have considered the evidence submitted in this proceeding and are of the opinion that neither the earnings of the system nor either the appraisals submitted justify the issue of the \$36,400 of stock and the \$85,000 of bonds. In our opinion, Peoples California Hydro-Electric Corporation should be authorized to issue, in payment for the properties, not exceeding \$36,400 of stock and \$48,000 of bonds, a total of \$84,400.

An order accordingly will be entered.

ORDER.

Application having been made to the Railroad Commission for an order authorizing Charles B. Jackson to transfer electric properties and business and Peoples California Hydro-Electric Corporation to acquire such properties and business and to issue \$36,400 of stock and \$85,000 of bonds, a public hearing having been held before Examiner Fannin, and the Railroad Commission being of the opinion that the

transfer of the properties and the issue of \$36,400 of stock and \$48,000 of bonds should be authorized and that the money, property or labor to be procured or paid for through the issue of said stock and bonds is reasonably required by Peoples California Hydro-Electric Corporation for the purpose specified herein and that the expenditures for said purpose are not, in whole or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that Charles B. Jackson be and he hereby is authorized to transfer to Peoples California Hydro-Electric Corporation, free and clear of all liens and indebtedness, the electric properties and business referred to in this application.

It is hereby further ordered, that Peoples California Hydro-Electric Corporation be and it hereby is authorized to acquire said properties and business, free and clear of all liens and indebtedness, and to issue in full payment not exceeding \$36,400 of its common capital stock and \$48,000 of its first mortgage 5½ per cent bonds.

The authority herein granted is subject to the following conditions:

1. Peoples California Hydro-Electric Corporation shall keep such record of the issue, sale and delivery of the bonds and stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$48.

3. The authority herein granted shall apply only to such transfer of properties and issue of stock and bonds as may be made on or before December 31, 1927.

It is hereby further ordered, that this application in so far as it involves the issue of \$37,000 of bonds be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-fifth day of June, 1927.

DECISION No. 18543.

IN THE MATTER OF THE APPLICATION OF RAYMOND TELEPHONE COMPANY, UNINCORPORATED, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE ADJUSTMENT AND REVISION OF SERVICE, RATES, RULES AND REGULATIONS, AND THE FILING OF SCHEDULES PROVIDING THEREFOR.

Application No. 11592.

Decided June 27, 1927.

RATES—TELEPHONE UTILITY—TO ADJUST—SERVICE—TO REVISE.—Applicant authorized to install revised rate schedules, and exchange areas and zones, old rates being found inadequate and discriminatory. Utility directed to acquire lines and equipment owned by subscribers, and to remunerate subscribers for such property acquired. In case of failure to reach an agreement with the owners thereof the utility is directed to request the Commission for an adjustment and settlement for such lines and equipment.

Ernest Irwin, for Applicant.

H. K. Taylor, for The Pacific Telephone and Telegraph Company.

By THE COMMISSION.

OPINION.

In this application, Raymond Telephone Company, hereinafter referred to as the applicant, asks authority to generally increase its rates for exchange telephone service and to establish new toll rates not previously exacted.

A public hearing was held in this matter before Examiner Satterwhite in Raymond on April 6, 1927.

Applicant company is owned by A. C. Shaw, who operates the property under the fictitious name and style of Raymond Telephone Company.

Applicant is engaged in a general telephone and telegraph business in Raymond and vicinity in Madera County, California. A telephone switchboard is operated in the town of Raymond from which telephone lines radiate to the various points served by applicant. The principal points served, together with the air line distance of each from Raymond, are: Ahwahnee, 15 miles; Ben Hur, 11 miles; Coarse Gold, 14 miles; Grub Gulch, 11 miles; and Wawona, 27 miles. The entire territory in which exchange service is rendered is, in general, a triangular area containing approximately five hundred square miles. In addition to its exchange service, applicant also provides interexchange service between Raymond and Madera over a toll telephone line owned and operated by it. At Madera, connection is made with the lines of The Pacific Telephone and Telegraph Company, giving applicant's subscribers access to all points on the system of that company and its connecting companies.

At the present time, as in the past, the entire exchange service area of applicant is served from one central office located in Raymond and all subscribers, that is, those who pay a regular monthly flat rate for service, receive so-called free switching over the entire area. For example, a subscriber paying \$1.50 per month for suburban exchange service, located at "The Pines" in the extreme eastern portion of the territory served by applicant, has unlimited service to a telephone user near Copper Mountain, in the extreme western portion of the territory

for no charge other than his regular rental rate. Likewise, any subscriber located in any part of the exchange service area may converse with a person in Madera for no charge other than that exacted for every message from Raymond to Madera and without consideration of the distance of the subscriber from Raymond. The practice of applicant with reference to nonsubscribers, who pay no regular rental charges, has been different, however, a schedule of toll rates being in effect which provides for charges to such users of the service based, generally, on the length of circuit used in the desired telephone connections. For example, a nonsubscriber using the facilities from the Raymond pay station to Madera will be charged at the regular rate for the use of the toll line, while a nonsubscriber talking from Ahwahnee to Madera will pay a charge greater than the Raymond-Madera charge as in this case the distance from Raymond to Ahwahnee is given consideration in fixing the charges. It is evident that, although applicant is operating its territory as one exchange area as far as its regular subscribers are concerned, there is, in fact, at present a division of the territory into several areas for determining charges against nonsubscribers.

The present rates and charges of applicant are objectionable, due to actual discrimination or the possibility of such discrimination between subscribers in various parts of the territory and between subscribers and nonsubscribers in the same portion of the area served, and, according to applicant's contention, they are inadequate and noncompensatory. It appears that applicant is justified in its contention from the evidence introduced at the hearing both by it and the Commission's engineer. Applicant proposes to remove the objectionable features of its present rate schedule and, at the same time, establish a rate schedule which should produce a greater revenue by dividing its territory into five distinct areas and by making charges to subscribers and nonsubscribers for use of the service from one of these areas to another. The boundary lines between the areas or zones proposed by applicant are, in general, so located that all subscribers' stations within a particular zone are connected to lines to which no stations in any other zone are connected; however, due to the present arrangement of a few of the lines and stations, it was not possible to locate all of the zone boundaries to meet the above condition. Such rearrangements and changes as may be necessary to comply with these conditions should be made by applicant before a change is made in its rate structure and the order following will so provide.

Service is now furnished by applicant to stations on what are called "farmer lines" at a lesser monthly rental rate than is exacted from applicant's suburban subscribers. The so-called "farmer lines" are not constructed in accordance with the generally accepted conception of

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this term. With one exception, these "farmer lines," are subscriber-owned lines connected at some convenient point on one of applicant's suburban lines instead of being connected at the primary rate zone boundary or some point near applicant's central office. In the present case introduced at the hearing in this matter, applicant plans to change the present "farmer line" subscribers in all zones except Raymond to the same basis as its suburban subscribers and acquire ownership of the now subscriber-owned lines for no other compensation to the subscribers for the wire lines than that of an agreement to maintain them the same. While it appears that the acquisition of the now subscriber-owned telephone lines would be in the interest of other subscribers serving the suburban lines to which such "farmer lines" are connected, we do not agree that applicant should expect to have such lines donated to it without under the condition of an enforced increase in rates. Although Mr. Shaw testified that applicant would be willing to purchase the telephone instruments now owned by subscribers, he did not indicate willingness in any degree to compensate the present owners for wires or service for such wires. We believe that applicant should compensate the present owners of telephone lines and equipment used in providing telephone service in a fair and reasonable amount before collecting from them rental charges based on the nonowner rate.

It is suggested that negotiations be opened between applicant and subscribers now owning telephone lines and equipment for the purchase by applicant of such lines and equipment at a price to be mutually satisfactory and, in the event that an agreement can not be reached, the matter should be submitted to this Commission for adjustment and settlement. Mr. Shaw stated that there was one "farmer line" running from Cold Springs in the Ahwahnee zone to Wawona which applicant did not desire to purchase for the reason that it is not profitable except by a heavy expenditure, for applicant to maintain a service to Wawona during the winter and that service is rendered over the subscriber-owned, subscriber-maintained line. If this be a fact, it would appear that applicant should seek seasonal abandonment of its service at a specified point as it did in connection with other lines of its zone (19 C. R. C. 59). Applicant has submitted at two different times for the consideration of this Commission, different schedules of proposed rates. The first, submitted with the application in this matter, contemplated drastic increases in flat rate charges to all subscribers as well as the institution of interzone rates as heretofore described. In our opinion, if this schedule of rates were made effective, the increase in charges to the users of the service would so greatly curtail the demand and usefulness of the service that the purpose of providing a revenue by means of increased rates would be defeated. Applicant evidently reached this conclusion before the hearing in this proceeding.

for it submitted in evidence at such hearing a second schedule of rates setting forth a lower flat rate charge to the majority of subscribers than was contained in the first schedule. It is to be noted that in the second schedule of rates a higher flat rate for suburban service is shown for Ahwahnee zone than is indicated for similar service in other zones, except Raymond zone. There are a greater number of connected stations in this zone than in the other outlying zones and hence the service is more valuable; while this may be true to some extent, it appears that the number of stations per line in the Ahwahnee zone degrades the service to an extent which more than offsets the greater availability of subscribers' stations. We believe that suburban service rates in the Ahwahnee zone should be the same as those in the other service zones of applicant, except Raymond zone.

Applicant's proposed toll service schedule shows that the same initial charge is made for toll telephone or telegraph service between any point within a certain zone and some point outside that zone, except the toll point at Wawona. Although the initial rate for toll telephone service between Raymond and Ahwahnee, for example, is shown as 20 cents, the initial rate for similar service between Raymond and Wawona is 30 cents; this difference is made although Wawona is located within the same zone as Ahwahnee and is served by the same lines. It appears that in connection with such an arrangement discriminatory practices would be likely to exist, and that such differential rates should not be fixed; accordingly, the order following will provide for equal initial toll telephone and telegraph rates between any point within a specified zone and any particular point outside that zone.

A charge of 15 cents for three minutes' conversation, applicable to nonsubscribers only, is proposed by applicant for service between two stations within any zone, such charge to be made only when telephone connection is obtained with the desired party. It appears that, in order to avoid difficulties in administration and operation as well as possible discrimination, a rate for such service should apply only to messages originating at designated pay stations and should be without time limit, except as all exchange messages are limited by the application of reasonable rules and regulations.

A reasonable rate base to be used in this proceeding has been determined from the estimates made by F. M. Casal, an assistant engineer of the Commission. Mr. Casal made a spot check of the inventory submitted by applicant and found it to be substantially correct. From this inventory an appraisal was prepared by Mr. Casal, the total of which, less materials and supplies, amounted to \$29,025. This figure, although somewhat less than that shown in the appraisal submitted in evidence by applicant, was accepted at the hearing by applicant as a reasonable historical reproduction cost new of its telephone properties.

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The rate base found reasonable in this proceeding for the year period October 1, 1926, to September 30, 1927, is \$31,700, composed of the following:

Appraisal of property as of December 31, 1924-----	\$29,000
Additions and betterments, January 1, 1925, to March 31, 1927-----	1,700
Materials and supplies and working capital-----	1,000

The operating expenses less depreciation annuity found to be reasonable for the year period October 1, 1926, to September 30, 1927, is \$5,900. The amount of operating expenses herein found reasonable is somewhat greater than an estimate submitted by applicant which contemplated curtailment of service by closing the office for regular service at 9 p.m. on week days instead of at 10 p.m. as at present. We find no good reason for reducing the regular hours of service and the amount allowed for expenses will provide for the same hours of service as at present. Operating expenses of \$6,980, including an allowance of \$1,080 for depreciation annuity, were found reasonable.

The evidence in this proceeding indicates that, under present conditions, the maximum net amount for interest that can be expected by applicant is something less than \$600, or about 1.9 per cent of the rate base found reasonable herein. There appears no doubt that applicant is entitled to an increase in rates. It is estimated that the rates set forth in Exhibit "A," attached hereto, will produce an annual gross revenue of \$9,330; deducting operating expenses, and an amount of \$1,080 estimated for taxes and uncollectibles, leaves a net for return of \$8,250.

No one at the hearing in this matter stated any objections to the increase in rates for service as proposed by applicant.

The map of the territory served by applicant, which was submitted with the application as Exhibit "F," was checked in the field by Mr. Casal and found to contain several errors in locations of the various boundary lines. A map showing territorial and zone boundaries submitted at the hearing by applicant as Exhibit No. 2, shows the boundaries in locations, with minor changes as suggested by Mr. Taylor. One of the changes in the territorial boundary set forth in the revised map involved the transfer of sections 2 and 11, township 7 north, range 18 east, from the exchange area of The Pacific Telephone and Telegraph Company's Le Grand exchange to the territory of applicant. H. K. Taylor, who appeared at the hearing for The Pacific Telephone and Telegraph Company, stated that such transfer met with the approval of the Pacific Company. A map of the territory and of applicant is attached hereto as Exhibit "B."

Map of primary rate area, Raymond exchange, Exhibit No. 3, attached, is substituted for the circle of one-half mile radius submitted by applicant, for the reason, as stated at the hearing by the Commission's witness, that it can be much more readily located in the

It is estimated that this substitution will have practically no effect on the revenue of applicant.

ORDER.

Raymond Telephone Company, applicant in this proceeding, having requested the Railroad Commission to make its order authorizing applicant to establish separate exchange service areas and to file and make effective schedules of rates for exchange telephone service and for toll telephone and telegraph service, and rules and regulations relating thereto, a public hearing having been held and the matter having been submitted and now being ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that the rates now charged by applicant for telephone service are insufficient to provide applicant with an adequate return and, in so far as the present rates differ from the rates herein established, are not just and reasonable rates and that the rates herein established are just and reasonable rates for the telephone and telegraph service rendered by applicant.

Basing its order on the foregoing findings of fact and on such other findings and statements of fact as are set forth in the opinion preceding this order;

It is hereby ordered, that Raymond Telephone Company, after a showing to the Railroad Commission that it has so rearranged its telephone circuits that none of its lines have connected subscribers' stations in more than one of the zones as set forth in Exhibit "B," attached hereto and, upon supplemental order from the Railroad Commission, may file and make effective rates for service in accordance with the schedules and maps shown in Exhibits "A," "B," and "C," attached hereto, together with rules and regulations governing service as may be approved by this Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-seventh day of June, 1927.

EXHIBIT "A."

RATES.

EXCHANGE SERVICE—SCHEDULE NO. A-1.

Service.

Applicable to individual and party-line business and residence flat rate service furnished within the primary rate area of the Raymond zone.

<i>Rate.</i>	Rate per month			
	Business		Residence	
	Wall set	Desk set	Wall set	Desk set
Each individual line station.....	\$3 50	\$3 75	\$3 00	\$3 25
Each two-party line station.....	3 00	3 25	2 50	2 75
Each four-party line station.....	2 50	2 75	2 00	2 25
Each extension station.....	1 00	1 25	1 00	1 25

Conditions.

(1) Individual and party-line services will be provided outside the primary rate area and within the exchange area at the above rates plus mileage charge.

(2) Extension sets at the above rates will be installed on the same premises as the primary station.

EXCHANGE SERVICE—SCHEDULE NO. A-4.**Mileage Rates—Raymond.**

Mileage rates applicable throughout the suburban area of the Raymond zone.

Rate.	Rate per each one-quarter mile or fraction thereof per month	
Each individual line primary station-----	\$0	50
Each two-party line primary station-----		35
Each four-party line primary station-----		25

The above rates are based on the air line distance measured between the subscriber's primary station and the nearest point on the boundary of the primary rate area. These rates are applicable to a service located outside the primary rate area but within the exchange area in addition to the base rates for similar service furnished within the primary rate area.

EXCHANGE SERVICE—SCHEDULE NO. A-5.**Suburban Service—Raymond.****Service.**

Applicable to suburban service furnished within the suburban area of the Raymond zone.

Rate.	Rate per month	
	Wall set	Desk set
Each business station-----	\$3 00	\$3 25
Each residence station-----	2 25	2 50

Conditions.

Suburban service is furnished outside the primary rate area but within the zone. In no case will the total number of stations connected to one circuit exceed ten (10) stations.

EXCHANGE SERVICE—SCHEDULE NO. A-5.**Suburban Service—Ahwahnee, Ben Hur, Coarse Gold and Grub Gulch Zones.****Service.**

Applicable to suburban service furnished at any point in the entire territory served outside of Raymond zone.

Rate.	Rate per month	
	Wall set	Desk set
Each business station-----	\$2 50	\$2 75
Each residence station-----	1 50	1 75

Conditions.

(1) Suburban lines outside the Raymond zone are not limited as to number of stations on each line.

(2) Subscribers to flat rate suburban service in any zone will receive service to all stations located within that zone for no additional charge.

EXCHANGE SERVICE—SCHEDULE NO. A-6.**Farmer Line Service—Raymond.****Service.**

Applicable to farmer line service outside the primary rate area but within the suburban area of Raymond zone.

Rate.	Rate per month
Each farmer line station-----	\$1 00
The minimum charge is \$3.50 per circuit per month.	

Conditions.

(1) The company installs, owns and maintains at its expense the necessary central office equipment and service and line facilities to the primary rate area boundary.

(2) The subscriber installs, owns and maintains at his expense the necessary facilities from the company's line at the boundary of the primary rate area to the subscriber's instrument and the complete telephone instrument, station protection and battery.

EXCHANGE SERVICE—SCHEDULE NO. A-11.**Pay Station Service.**

Applicable to nonsubscriber use of the service between two points in any one zone.

Rate.

Each message ----- \$0 10

EXCHANGE SERVICE—SCHEDULE NO. A-14.**Directory Listings—Entire Territory.**

Applicable to listings in telephone directory of Raymond Telephone Company. Subscribers are entitled, without charge, to listings in the alphabetical section of the telephone directory as follows:

Individual line service-----	1 listing
Party line service, each primary station-----	1 listing
Suburban service, each primary station-----	1 listing

Additional listings in the directory and joint use of service by others than members of the subscriber's firm or family are available in accordance with the following rates:

	Rate per month
Each additional listing, member of same firm or family-----	\$0 25
Each joint user service, including directory listing-----	1 00

EXCHANGE SERVICE—SCHEDULE NO. A-18.**Vacation Rate Service.**

Subscribers to residence service, while temporarily absent from their residences may be granted a discount of 50 per cent on the regular rate for their primary telephone and extensions, under the following conditions:

That the subscriber shall have had residence service continuously for a period of not less than one year, and that his account is paid in full to date of application for discount.

That the exchange service charge, at the vacation rate, for the entire period of suspension be paid at the time the application for the vacation rate service is accepted by the company.

Service at the vacation rate may begin on any day of the month, and may be granted for any period of not less than one month and not more than four months. Subscribers shall be allowed but one suspension of service at the vacation rate in each calendar year.

Service furnished during the period of suspension will consist of outgoing service only. Persons calling for the telephone number in question will be advised by the operator that the telephone has been "temporarily disconnected." In the event the subscriber desires incoming service restored in advance of the last day of the period of suspension such restoration will be made upon application to the company. The subscriber will then be billed at the regular rate from and including the date following that on which service is restored, and the payment previously made for such period at the vacation rate will be credited to the subscriber as a payment on account.

TOLL SERVICE—SCHEDULE NO. B-1.**General Service.**

The following listed initial rates are effective for long distance toll telephone service over the lines of Raymond Telephone Company:

Rates.

	Between Ahwahnee	Ben Hur	Coarse Gold	Grub Gulch	Madera	Raymond
and						
Ben Hur-----	\$0 20	-----	-----	-----	-----	-----
Coarse Gold ----	20	\$0 20	-----	-----	-----	-----
Grub Gulch -----	15	15	\$0 15	-----	-----	-----
Madera -----	50	40	45	\$0 40	-----	-----
Raymond -----	25	15	20	15	\$0 25	-----
Wawona -----	-----	20	20	15	50	\$0 25

The above rates are for "person to person" service; they apply to toll telephone messages over the company's lines without reference to the class of toll service which may be requested or which may be offered or furnished by connecting companies.

Initial Period and Overtime Period.

The toll telephone rates herein listed are for an initial period of three (3) minutes and an overtime period of one (1) minute.

Overtime Rates and Report Charges.

Overtime rates and report charges are effective as follows:

When the initial rate is	The overtime rate is	The report charge is
\$0 15	\$0 05.	-----
20	05	-----
25	05	\$0 10
40	10	10
45	15	10
50	15	10

CALIFORNIA RAILROAD COMMISSION DECISIONS.

The charge applicable to toll service between any point on the lines of the company other than Madera, and any point on the lines of connecting companies beyond Madera is the sum of the rate quoted by the connecting companies for the use of their lines between Madera and the point on the connecting lines plus the above listed rates applying between Madera and the point on this company's line.

List of Stations.

Following is a list of stations, exclusive of toll stations and exchanges, served on the lines of the Raymond Telephone Company, together with information indicating the rate to be used on interzone and intercompany toll telephone and telegraph traffic.

Station	Use Rate to
Buchanan	Raymond
Fresno Flats	Coarse Gold
Knowles	Raymond
Miami Lodge	Ahwahnee
Mist	Grub Gulch
Sugar Pine	Ahwahnee
Summit House	Raymond
The Pines	Coarse Gold

TELEGRAPH SERVICE—SCHEDULE NO. C-1.

General Service.

Applicable to telegraph service between any two points on the company's lines as listed below:

Telegrams—Rate.

Between Madera and	First ten words or less	Each additional word
Ahwahnee -----	\$0 60	\$0 03
Ben Hur -----	42	02
Coarse Gold -----	48	03
Grub Gulch -----	42	02
Raymond -----	30	02
Wawona -----	60	03
Between any two points on company's lines, other than Madera -----	30	02

Day Letters and Night Letters—Rate.

When the telegraph rate is	The day letter rate is	The night letter rate is
	50 words or less	50 words or less
	Each add. 10 words or less	Each add. 10 words or less
\$0 30	\$0 45	\$0 09
42	63	126
48	72	144
60	90	18
		60

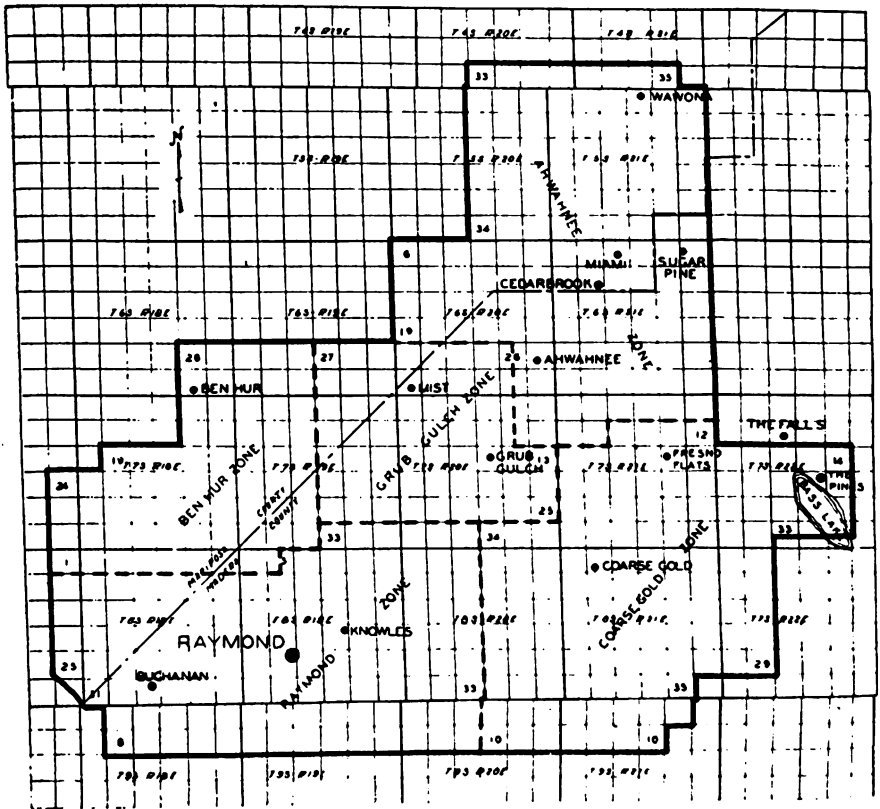
EXHIBIT "B."

CALIFORNIA RAILROAD COMMISSION

MAP SHOWING

TERRITORY SERVED AND ZONES
RAYMOND TELEPHONE COMPANY

APPLICATION 11592



TERRITORIAL BOUNDARY ———

ZONE BOUNDARY - - - - -

SCALE
0 1 2 3
M. F. S.

EXHIBIT "C."

CALIFORNIA RAILROAD COMMISSION

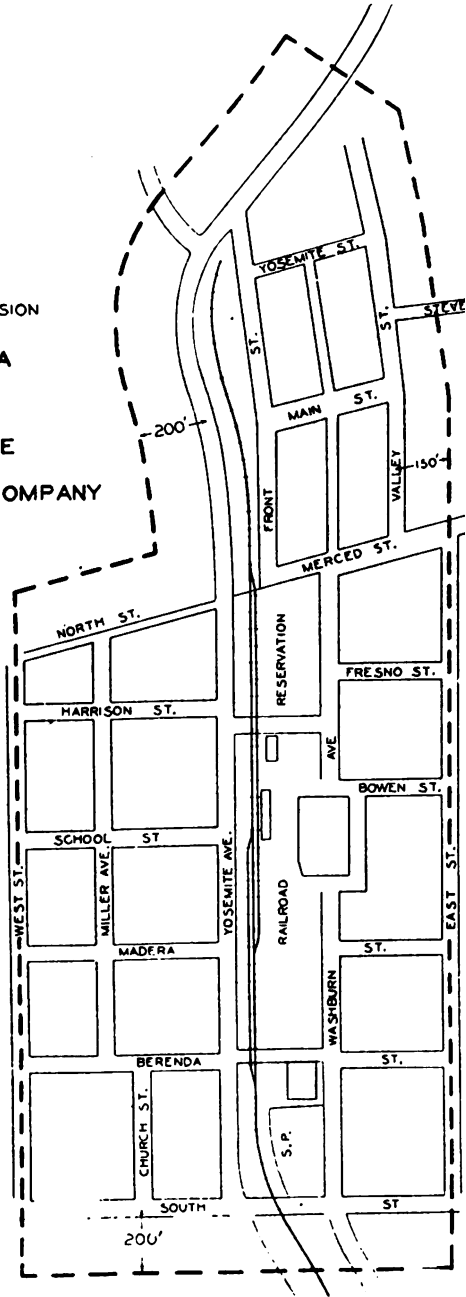
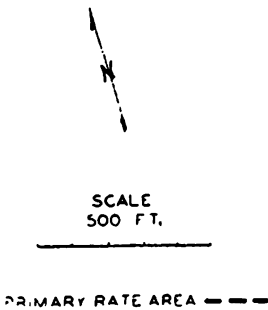
PRIMARY RATE AREA

OF

RAYMOND EXCHANGE

RAYMOND TELEPHONE COMPANY

APPLICATION NO. 11592



DECISION No. 18544.

IN THE MATTER OF THE INVESTIGATION UPON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF THE RATES, CHARGES, PRACTICES, CONTRACTS, RULES, REGULATIONS, SCHEDULES AND CONDITIONS OF SERVICE, OR ANY OF THEM, OF DILLON BEACH COMPANY, A CORPORATION, OPERATING A WATER SYSTEM IN VICINITY OF DILLON BEACH, MARIN COUNTY.

Case No. 2228.

Decided June 27, 1927.

COMMISSION'S INVESTIGATION—WATER UTILITY—RATES—SERVICE.—Finding that the company had never dedicated its property to the public use, and that service has been private in nature, the Commission dismisses the proceeding for lack of jurisdiction.

A. E. Shaw, for Dillon Beach Company.

Emmet J. Donohue, for T. Edwin Cornett and Joe Doss.

William Gould, for himself and certain other owners of property in Dillon Beach.

J. H. Kuser for California State Board of Health.

BY THE COMMISSION.

OPINION.

This is an investigation by the Railroad Commission instituted upon its own motion to inquire into the reasonableness of the rates, charges, practices, contracts, rules, regulations and conditions of service, etc., of Dillon Beach Company, a corporation, engaged among other things in the operation of a water system supplying water for domestic purposes to consumers residing in Dillon Beach, in Marin County.

During the last two years the Commission has received a large number of complaints by consumers of this system to the effect that during the summer the water supply was wholly inadequate to take care of the necessary household and sanitary requirements; that service was frequently interrupted and entirely discontinued for many hours and sometimes for several days; that the water was generally offensive as to odor and taste and at times highly discolored. It was further complained that certain consumers paid at the rate of \$5 per year, while others were charged \$10 and \$12 per year for the same class of service, and that rates had been arbitrarily increased as to some consumers without authority from the Railroad Commission. When these various matters were taken up informally the Dillon Beach Company informed the Commission that it was not operating as a public utility, but only as a strictly private enterprise and was therefore not subject to the authority and jurisdiction of the Railroad Commission. Thereupon the Commission, by its order dated April 12, 1926, instituted this proceeding to determine the status of the operations of this company as to the conduct of its water system. Answer was filed by the Dillon Beach Company wherein it alleged in effect that said company owns and controls certain subdivided property in Marin County,

CALIFORNIA RAILROAD COMMISSION DECISIONS.

consisting of a hotel resort and attached cottages, and also lots within the company is now in the business of selling to the public; that the company operates a water system to supply water to the said hotel and premises and to the purchasers of lots in the subdivision, but that such water is delivered under private contracts and agreements with said lot owners and that the said company has at all times refused to supply water to any persons except in pursuance of the contracts and agreements made by and between said company and the lot purchasers. It is further alleged that the company is not operating the water system as a source of profit and that the compensation for such service as is rendered is set out in said contracts and is used solely for the purpose of upholding and expense of said water system; that the company has at no time dedicated any of its water supply to the use of the general public or any portion thereof and is therefore operating its water system in a strictly private capacity, is not a public utility, and is not subject to the jurisdiction of the Commission. The company therefore requests that the proceeding be dismissed for lack of jurisdiction.

Public hearings in this matter were held before Examiner Austin Dillon Beach and San Francisco, after due notice thereof had been given and all interested parties afforded an opportunity to appear and be heard.

From the evidence presented in this matter it appears that at some time prior to 1905 one John W. Keegan subdivided into lots a tract of land containing approximately $23\frac{1}{2}$ acres, and now known as subdivisions Nos. 1 and 2, Dillon Beach. A few lots were sold from time to time by Keegan, who installed a $\frac{3}{4}$ -inch pipe line from a spring to supply water to those who required it. In 1911 Dillon Beach Company was incorporated and acquired from Keegan the resort and all of the undeveloped property in the tract. At the time this transfer was made there were only four houses built upon the lots sold by the former owner. The articles of incorporation of Dillon Beach Company were filed in the office of the Secretary of State on July 8, 1911, and provide principally for the operation of hotels and sea beach and pleasure resorts and for the conduct of a general real estate business. Except as may be implied indirectly in connection with the specific authority granted, nothing is contained in these articles of incorporation authorizing the conduct of a general water business.

Soon after the purchase of this property the company abandoned the water system installed by Keegan and acquired additional springs, built a dam and reservoir, dug wells, installed a pumping plant and constructed a new distribution system consisting of two-inch pipe. At present the water supply is obtained from three springs located on a hill above the tract and from a dug well about 15 feet deep located

in a canyon near the hotel. Water is stored from the springs in a reservoir of about 250,000 gallons capacity and also in two tanks of 3000 and 8000 gallons, respectively. Water is pumped directly into the mains from the wells at times when the gravity supply runs low in the summer. The resort properties consist of a hotel with thirty-three small cottages or cabins and also a dancing pavilion, a bath house and garage. These properties, while owned by Dillon Beach Company, have been operated by other parties for the last ten years under a lease, which among other things provided therein that water would be furnished by the company to the hotel and its properties for a sum of \$20 per year.

The community served is essentially a summer resort, there being in addition to the hotel and resort about seventy privately-owned cottages occupied for perhaps an average of three months during the summer. There are not over a dozen permanent consumers who reside in their homes throughout the entire year. The water supply capable of being developed at this particular location is very limited, with the result that during weekends and holidays in the summer the influx of many hundreds of visitors creates a demand for water which the system can not meet. According to the testimony the system has cost approximately \$10,000 to install and is entirely unmetered. The rate now charged by the company is \$10 per year, payable in advance, for all service rendered to private cottages.

At the outset of the hearing in this matter a general objection against the entire proceeding was made by counsel for the company upon the grounds that Dillon Beach Company is not a public utility, is not a water company selling water to consumers generally or otherwise, that said company is a private concern engaged in a strictly private business of operating a beach resort and the selling of certain lots to which water is furnished under contract with the lot owners and not otherwise, and that any attempt by the Railroad Commission to declare this said company to be a public utility and to assume jurisdiction over its water operations will amount to the confiscation of its property for a public use without due process of law, in violation of the state and federal constitutions.

In general the testimony presented by consumers is to the effect that the water supply is entirely inadequate during the summer when most necessary. Water is very frequently not available to properly flush toilets and to provide for cooking and drinking, and in order to conserve the supply it has frequently been necessary for the operator of the system to shut off all water and then serve in rotation for an hour or so one street main at a time. The testimony of Dr. Kuser, Marin County Health Officer, indicates that the water is potable and not contaminated in any way, although he recommended that certain

improvements be installed for the further protection of the spring against the entry of rodents and small animals and reptiles.

While only a few persons objected to the payment of more than \$5 per year for water service, the majority of the consumers did not object to the present charge of \$10 per annum, provided there was a more adequate water supply and no further discrimination as to charges. During the year 1926 the transmission line was replaced with new two-inch galvanized pipe, which should very materially increase the water available, and also to a considerable extent eliminated the effects of the rust which existed in the former worn out pipe.

Prior to 1921 the company generally charged \$5 per year for service. Subsequent thereto various charges have been made for water service to the consumers. Some paid \$5, others \$7.50, \$10 and \$12. The policy was also adopted by the company of charging \$12 per year for water where the cottage was not occupied by the owner or his family but rented. Starting with the service for 1926 the company has billed all consumers \$10 per year in advance, whether the premises served is rented or occupied by the owner. None of the above charges were based upon any authority of this Commission, nor has the company at any time applied for any such authority. In addition to this the company has consistently refused to file with the Commission its rates, rules and regulations governing water service to its consumers based upon its claim that it is not a public utility.

The evidence shows that this company has never served water to any consumers other than those located upon lots within its subdivided properties. It was also the practice of the company in connection with the sale of lots to require the prospective purchaser to sign an agreement for the sale of the property which set out therein, among other restrictive clauses concerning the use of the property, that the company upon demand would furnish an adequate supply of water to the premises for domestic purposes at such price as may be fixed by the company, not exceeding \$12 per year. Although the restrictive clauses in the agreements to purchase were usually set out in the actual deed to the property delivered by the company upon completion of the transaction, yet the early deeds left out this clause concerning the furnishing of water. In 1916 the agreement and deed forms were revised and both definitely set out in more detail the clause concerning the water.

The evidence indicates that many of the lot purchasers did not sign the form agreements for the purchase of the lots and that there is nothing contained in the deeds they received from the company for their lots relating to the furnishing of water. Nothing concerning water supply was set out by contract or deed to the few lots acquired from

John W. Keegan prior to the sale of the tract to the Dillon Beach Company.

It is the contention of this company that all water furnished by it has been and now is served upon a contractual basis, and, with the possible exception of the four lot owners who were using water at the time of acquisition of the property by the company, all lot sales were based upon either written or verbal agreements to furnish water to each lot sold upon a price to be fixed by the company.

A study of the evidence presented in connection with this case indicates that upon the taking over of this resort and real estate project Dillon Beach Company abandoned the former makeshift water plant and installed an entirely different and completely new water system, and that it thereafter commenced the delivery of water with the very evident intention of supplying water only to the owners of lots within its subdivided properties. In so far as it was able the company attempted to confine its service under written agreements, and, although such written agreements were not obtained in all cases, it is clear that since some time in 1916 all deeds to lots purchased contained the clause governing the furnishing of water to the lots by the company. The evidence is somewhat conflicting as to the exact time the water clause was inserted in the deeds, the testimony of Mr. Wilson, secretary of the company, being to the effect that it was his opinion that the change in the form of deed used by the company was made at some time during the year 1914. However, it is established that the deeds have covered this point for at least the past ten years.

In view of the fact that it was the evident intent of this company to avoid the dedication of its water supply to the public generally and to confine its service to private arrangements with its consumers upon a nonprofit basis, it appears that the service rendered has been private in nature and that the water supply has not in fact been dedicated to the public use. It therefore follows that this matter should be dismissed for lack of jurisdiction.

ORDER.

The Railroad Commission of the State of California having instituted upon its own motion an investigation to determine whether the rates, charges, practices, contracts, rules, regulations, schedules and conditions of service, or any of them, of Dillon Beach Company, a corporation, operating a water system furnishing water for domestic and other purposes at Dillon Beach, Marin County, are unjust, unreasonable, discriminatory or preferential in any particular, and to determine the just, reasonable and sufficient rates, charges, practices, contracts, rules, regulations and conditions of service to be observed and enforced in connection with such service of water by said Dillon Beach Company

and to fix the same by order, public hearings having been held thereon, the matter having been submitted and the Commission being fully informed thereon and being of the opinion that the water supplied by Dillon Beach Company, a corporation, to its consumers has not been dedicated to the public use and that said company is not furnishing water to its consumers as a public utility;

It is hereby ordered, that the above entitled proceeding be and it is hereby dismissed for lack of jurisdiction.

Dated at San Francisco, California, this twenty-seventh day of June, 1927.

DECISION No. 18545.

ROSE T. McKENNA

vs.

PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION.

Case No. 2273.

Decided June 27, 1927.

COMMISSION'S JURISDICTION—DAM CONSTRUCTION—COMMISSION'S GENERAL ORDER.
—Finding that the construction of an extension of the Lake Fordyce Dam of the defendant utility does not come within the provisions of General Order No. 50, the Commission dismisses the complaint.

George K. Whitworth and Paul O'Neil, for Complainant.
Charles P. Cutten, for Defendant.

LOUTTIT, Commissioner.

OPINION.

By this complaint the defendant company is alleged to have violated section 42 of the Public Utilities Act and General Order No. 50 of this Commission, and certain other sections of the Public Utilities Act, in carrying on certain construction work in connection with the completion of an extension to a dam situated at Lake Fordyce, California. The prayer and object of the complaint is for an order of this Commission subjecting the defendant company to penalties for the violation of the above referred to sections of the Public Utilities Act and the said General Order No. 50.

A hearing was had before me and, after the filing of briefs, was duly submitted, and is now ready for decision.

The facts as developed at the hearing are that on or about the year 1873 the South Yuba Company, a predecessor in interest of the defendant, commenced the construction of a dam for the impounding of water at Lake Fordyce, California, known as "Lake Fordyce Dam," which was completed in the year 1874. In the year 1925, the company com-

menced work on the raising of and making of a 47-foot addition to the said dam for the purpose of increasing the storage capacity of the lake. The plans and specifications for this addition were not filed with the Railroad Commission of the State of California, nor did defendant secure from the Railroad Commission its approval for the raising of said dam or for the work commenced thereon.

The alleged violation consists in the failure of the defendant to submit to the Railroad Commission the said plans and specifications in order that the Commission might inquire into the safety of the contemplated addition to said dam, and for the failure of the company to receive from the Commission its approval of such plans and specifications as to safety, as is alleged to be required under General Order No. 50, which provides that:

No public utility shall begin the construction of any dam without first having submitted to the Railroad Commission the plans and specifications thereof in order that the Railroad Commission may inquire into the safety of the contemplated structure, and shall have received from the Railroad Commission its approval of such plans and specifications as to safety.

As noted, this order states that no public utility shall *begin* the construction of any dam, etc., and I do not believe that it is applicable to a case such as here, where the construction is in connection with an extension of a dam as distinguished from original construction. It is my opinion, therefore, that this complaint should be dismissed for the reason that General Order No. 50 does not apply to the situation here involved, and I recommend the following form of order:

ORDER.

Complaint having been filed as above entitled, hearing having been had, briefs having been filed and the matter having been duly submitted, and being now ready for decision, and it appearing that the complaint should be dismissed;

It is hereby ordered, that the above named complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of June, 1927.

DECISION No. 18546.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND
ELECTRIC CORPORATION FOR INCREASE IN RATES CHARGED
FOR GAS.

Application No. 11354.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA GAS COMPANY, A CORPORATION, FOR AUTHORIZATION TO INCREASE RATES.

Application No. 11379.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, A CORPORATION, FOR AUTHORIZATION TO INCREASE RATES.

Application No. 11380.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE RATES TO BE CHARGED BY SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR NATURAL GAS FURNISHED TO LOS ANGELES GAS AND ELECTRIC CORPORATION.

Case No. 2186.

Decided June 27, 1927.

GAS UTILITY—SERVICE—NATURAL GAS ADMINISTRATOR.—Claude C. Brown appointed administrator of the service of natural gas, with authority to allocate the supply among the interested utilities, and direct discontinuance of service to industrial and commercial consumers during periods of shortage for domestic consumption, in conformity with stipulation by the companies entered into before the Commission, as incorporated in Decision No. 17830.

BY THE COMMISSION.

SUPPLEMENTAL ORDER APPOINTING GAS ADMINISTRATOR.

Los Angeles Gas and Electric Corporation, a corporation, Southern Counties Gas Company of California, a corporation, Southern California Gas Company, a corporation, and Midway Gas Company, a corporation, having stipulated in the above numbered proceedings that "the Railroad Commission may, at its pleasure, appoint a gas administrator, who shall have power to allocate to the various public utility companies that are parties to these proceedings all natural gas of the said public utility companies, according to the terms and conditions of Decision No. 17830, this stipulation, and any further order or orders in these proceedings * * *," and it appearing that the public interest will be subserved by the appointment of a gas administrator to perform the functions contemplated in said stipulation;

It is hereby ordered, that Claude C. Brown be and he is hereby appointed gas administrator over the four above named companies and their respective operations, and he is hereby given authority to allocate to the said companies all natural gas used or controlled by them in their operations, according to the terms and conditions of Railroad Commission Decisions Nos. 17830 and 18401, and to supervise and carry out the intent and purpose of said decisions.

It is hereby further ordered, that the salary to be paid said gas administrator shall be \$425 per month, said sum to be paid by the above named gas companies to the secretary of the California Railroad Commission on or before the first day of each calendar month hereafter

during the effectiveness of this order. The appointment herein provided for shall continue until further order by this Commission.

The effective date of this order shall be July 1, 1927.

Dated at San Francisco, California, this twenty-seventh day of June, 1927.

DECISION No. 18549.

IN THE MATTER OF THE APPLICATION OF SANTA BARBARA TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS STOCKS AND BONDS AND FOR AUTHORITY TO CONSTRUCT AN EXCHANGE BUILDING AND TO PURCHASE TELEPHONE EQUIPMENT.

Application No. 13740.

Decided June 27, 1927.

SECURITIES—TELEPHONE UTILITY—To Issue.—Applicant authorized to issue and sell \$119,500 of common and \$150,000 of 6 per cent preferred stock, at par, and to issue and sell at not less than 94 per cent of face value, plus accrued interest, \$380,000 of 5½ per cent bonds, and to use the proceeds thereof to finance the acquisition of a new exchange building and site and to install an automatic telephone exchange and to reimburse its treasury on account of capital expenditures.

Chickering and Gregory, by *W. C. Fox*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing, Santa Barbara Telephone Company asks permission to issue and sell at par \$119,500 of common and \$150,000 of 6 per cent preferred stock and to issue and sell at not less than 94 per cent of their face value and accrued interest \$380,000 of 5½ per cent bonds to pay for the cost of constructing a new telephone exchange and office building in Santa Barbara and install in place of the present manual equipment automatic equipment in said city and to reimburse its treasury on account of income expended for additions and betterments. It also asks the Commission to approve the contract (Exhibit No. 8) with Automatic Electric, Inc., in so far as it involves the creation of an indebtedness payable at more than one year after date.

Santa Barbara Telephone Company has amended its articles of incorporation (Exhibit No. 1) and, as amended, they provide for an authorized stock issue of \$700,000, divided into 7000 shares of the par value of \$100 each, of which 5000 shares are preferred and 2000 are common stock. The preferred stock carries dividends at the rate of 6 per cent per annum. Upon the payment of dividend on the preferred stock at the rate of 6 per cent per annum, the company may pay dividends on its

common stock at the rate of 7 per cent per annum. After the payment of 7 per cent dividend on the common stock, any additional dividend that may be declared must be distributed equally between the common and preferred stock. On January 29, 1925, applicant in Application No. 5039 filed a resolution of its board of directors in which it stated that it will not, until the deficiency in its depreciation reserve has been made up, either increase the rate of dividend on its capital stock or declare any dividend which will reduce its unappropriated surplus as shown by its books below the sum of \$150,000.

The company has \$350,000 of preferred stock and \$80,500 of common stock now outstanding. All of the outstanding stock, except the amount necessary to qualify directors, is owned by The Santa Barbara Telephone Company organized under the laws of Oregon. It has \$418,650 of first mortgage 5 per cent and \$275,000 of 5½ per cent general and refunding bonds outstanding and in the hands of the public. It has an additional \$380,000 of bonds which the company proposes to issue to be issued under its existing general and refunding mortgage. These bonds bear interest at 5½ per cent per annum and mature on January 1, 1927.

Applicant reports that it has expended for additions and betterments to its properties the sum of \$261,812.27, which has not been capitalized. The evidence is by no means conclusive that this sum has been expended from income as that term is used in the Public Utility Act. There is no doubt that applicant has invested some income in fixed capital, but the exact amount has not been satisfactorily determined. We have analyzed applicant's financial statements and believe that they show that it has invested in its properties at least \$150,000 of moneys obtained from earnings and that it should be permitted to reimburse its treasury to that extent. The evidence shows that the moneys realized from the issue of stock for the purpose of reimbursing applicant's treasury will be used to pay the cost of additional betterments which must be installed during 1927 or to pay in part the cost of the new exchange building and automatic equipment to be installed. Reference will presently be made.

In its Exhibit "B" applicant reports the cost of its exchange building, cost of reconstructing its wire system and acquiring and installing automatic equipment at \$603,740.04. This amount is segregated by the company as follows:

Exchange building -----	\$120,000 00
Furniture and fixtures -----	7,500 00
Paving construction -----	1,000 00
Underground construction -----	4,905 00
Underground cables -----	40,095 00

\$173,000

Toll equipment -----	\$9,191 62	
Central office equipment—		
Coin collector equipment-----	317,747 00	
Information desk-----	1,397 66	
Repair clerk's desk-----	814 07	
Test desk (2 positions)-----	3,268 38	
Intercepting desk (2 positions)-----	4,056 82	
Switchboard trunk changes-----	500 00	
P. B. X. changes-----	16,818 00	
Coin collectors -----	4,437 50	
		\$358,231 05
Public educational—		
Number changes -----	\$2,518 00	
Substation changes—		
8074 dials installed -----	43,195 90	
1904 telephones replaced -----	12,956 20	
5670 telephones converted-----	13,338 89	
		72,008 99
		<u>\$603,740 04</u>

Applicant has entered into a contract with the Automatic Electric, Inc. (Exhibit No. 8), under the terms of which contract that corporation will manufacture and install for applicant automatic equipment adequate to furnish telephone service to Santa Barbara at a cost of \$337,475.66. It is believed that the new exchange equipment can be put in service about September 1, 1928. After it is put in service the present manual equipment will be sold or used in other exchanges. It is also applicant's intention to sell, if it can obtain a reasonable price, the real property on which its present exchange and its present general offices are located. In any event, upon the completion of its new building and putting into operation the new exchange, the present real property will become nonoperative. The contract (Exhibit No. 8) is dated April 11, 1927. Under the contract the final payment, \$67,495.13, is due thirty days after written notice of completion of installation by the Automatic Electric, Inc.

There can be no question but that applicant has need for a new central office and exchange building. Its present exchange building was damaged by earthquake, while its general offices are located in temporary quarters, in a building that was originally constructed for garage purposes.

ORDER.

Santa Barbara Telephone Company having applied to the Railroad Commission for permission to issue stock and bonds in the amounts and for the purposes indicated in the foregoing opinion, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and

CALIFORNIA RAILROAD COMMISSION DECISIONS.

that this application should be granted as herein provided ; that
It is hereby ordered, as follows :

1. Santa Barbara Telephone Company may issue and sell at less than par, on or before September 1, 1928, \$119,500 of common stock and \$150,000 of 6 per cent preferred stock and use \$150,000 of the proceeds to reimburse its treasury on account of earnings and expenses expended for additions and betterments to its properties and use the remainder of the proceeds to pay in part the cost of constructing a new telephone exchange and office building, and install therein new telephone equipment and other improvements more particularly described in applicant's Exhibit "B."

2. Santa Barbara Telephone Company may issue and sell on or before September 1, 1928, at not less than 94 per cent of their face value and accrued interest \$380,000 of 5½ per cent bonds due September 1, 1946, and shall use the proceeds obtained from the sale of such bonds other than accrued interest to pay in part the cost of constructing a new telephone exchange and office building and install therein new automatic telephone equipment, and the other improvements more particularly described in applicant's Exhibit "B."

3. Santa Barbara Telephone Company may enter into a contract with the Automatic Electric, Inc., substantially in the same form as the contract filed in this proceeding and marked Exhibit "A."

4. The authority herein granted will become effective when the Santa Barbara Telephone Company has paid the fee prescribed by section 150 of the Public Utilities Act, which fee is \$380.

5. Santa Barbara Telephone Company shall keep such records of the issue, sale and delivery of the stock and bonds herein authorized as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-seventh day of August, 1927.

DECISION No. 18550.

IN THE MATTER OF THE APPLICATION OF ORVAL OVERALL, JR., and ASKIN, DOING BUSINESS UNDER THE NAME AND STYLE OF SEQUOIA NATIONAL PARK STAGE COMPANY, TO SECURE THE TRANSFER, AND SEQUOIA NATIONAL PARK STAGE COMPANY, TO BUY CERTIFICATES OF PUBLIC CONVEYANCE, AND NECESSITY AND OF SEQUOIA NATIONAL PARK STAGE COMPANY, A CORPORATION, TO ISSUE CAPITAL STOCK.

Application No. 13576.

SEQUOIA AND GENERAL GRANT NATIONAL PARKS COMPANY

vs.

ORVAL OVERALL AND E. L. ASKIN AND SEQUOIA NATIONAL PARK
STAGE COMPANY.

Case No. 2342.

Decided June 27, 1927.

TRANSFER—AUTO STAGES—STOCK—To Issue.—Orval Overall and E. L. Askin, copartners, authorized to transfer operative rights and property to Sequoia National Park Stage Company, a corporation, and the latter authorized to issue not exceeding \$20,000 of stock in payment therefor. Application denied in so far as it involves the issuance of \$15,000 of stock.

Gwyn H. Baker, for Applicants in Application No. 13576, and for Defendants in Case No. 2342.

Richard T. Eddy, for Sequoia and General Grant National Parks Company, Protest-
stant, in Application No. 13576 and for Complainant in Case No. 2342.

LOUTTIT, Commissioner.

OPINION.

In Application No. 13576 the Railroad Commission is asked to make its order authorizing Orval Overall and E. L. Askin, doing business under the name and style of Sequoia National Park Stage Company, a copartnership, to sell and transfer to the Sequoia National Park Stage Company, a corporation, certificates of public convenience and necessity heretofore granted by the Commission by Decisions No. 6395, No. 12390, No. 14164 and No. 16758 and authorizing the corporation to buy such certificates, and other properties, and to issue 350 shares of its common capital stock of the aggregate par value of \$35,000 and assume liabilities in payment therefor.

In Case No. 2342 complainant alleges that no partnership operating under the fictitious name and style of Sequoia National Park Stage Company ever existed between Orval Overall and E. L. Askin and that if the relation established between them in 1919 be regarded by the Commission as a partnership, it was dissolved in 1920 by mutual consent. In effect, it appears to me that complainant asks this Commission to find that the certificates heretofore granted, to which reference will hereafter be made, never vested, or if such certificates did vest in the partnership, they were forfeited by the alleged dissolution of the partnership and that therefore no certificates are in existence for transfer to the Sequoia National Park Stage Company, a corporation.

At the hearing had on May 27 at Visalia on the above entitled matters, the Commission was requested to consider in these proceedings the evidence submitted in Applications Nos. 10473 and 12709.

The partnership status between Orval Overall and E. L. Askin was considered by the Commission in Decision No. 17810, dated December 28, 1926, in Applications No. 10473 and No. 12709. In that decision

the Commission reviewed the evidence submitted relative to the partnership and concluded as follows:

At most the evidence shows an agreement between Overall and Askin to dissolve the partnership, which has been partially carried into effect, but through neglect or oversight of the parties the dissolution of the partnership has not been formally accomplished.

We are concerned with the status of the partnership only in so far as it relates in its capacity to maintain this application; all questions concerning the relationship between the partners or any accounting that may be necessary must be determined by the courts. Nor are we here required to determine the effect of such conduct upon the Sequoia Company's operative rights, this being a matter which should form the subject of a separate complaint. In our judgment the evidence does not show that the partnership is not competent to maintain this application. Accordingly the objection of the National Parks Company will be overruled, etc.

I have considered the evidence submitted by complainant in Case No. 2342 and have also considered the evidence submitted in Applications No. 10473 and No. 12709. In my opinion the record shows that Orval Overall and E. L. Askin did enter into a partnership and that such partnership was never dissolved. This Commission has never authorized Orval Overall to transfer any of his interest in the certificates which the Commission has heretofore granted to him and E. L. Askin as partners and to which reference will be made herein. It seems to me that Orval Overall is responsible as a partner in such degree and to such extent as would be necessary to make it possible for the Commission to require him to perform the service undertaken by the partnership. I believe that the complaint filed by the Sequoia and General Grant Parks Company should be dismissed.

It appears that by Decision No. 6395, dated June 10, 1919, in Application No. 4561, the Commission granted to Orval Overall and E. L. Askin, copartners, a certificate of public convenience and necessity to operate an automobile stage line as a common carrier of passengers and express between Lemon Cove and the Sequoia National Park line, serving as intermediate stations the communities at Three Rivers and Kaweah, such service to be operated from Lemon Cove to the park line during such periods of each year as the park may be open to visitors and automobile traffic and during the remaining portion of the year between Lemon Cove and Kaweah. Thereafter, by Decision No. 12390, dated July 24, 1923, in Application No. 8962, they were authorized to operate a passenger and express service between Three Rivers and Mineral King, and by Decision No. 14164, dated October 10, 1924, in Application No. 10473, to operate between Visalia and Lemon Cove, via Farmersville and Exeter, as an extension of the operative right between Lemon Cove and Sequoia National Park, to be operated seasonally as a portion of and in conjunction with through stage service from Visalia to Sequoia National Park via Exeter, provided that no local passengers, baggage or express be handled between Visalia and Exeter and inter-

mediate points. Subsequently, by Decision No. 16758, dated May 24, 1926, and Decision No. 17810, dated December 28, 1926, in Application No. 10473, the copartners were authorized to abandon the automobile stage service between Kaweah and the former entrance to Sequoia National Park on the westerly boundary thereof, and to reroute said service so as to conduct and operate it, in connection with the service between Visalia and Exeter, from a point on the route between Three Rivers and Kaweah, known as Kaweah Bridge, and thence via Hammond and over the General's highway to the present entrance to Sequoia National Park upon the southerly boundary of said park.

It now appears that the holders of these certificates have decided to organize a corporation for the purpose of having it take over such operative rights and thereafter of conducting the operations thereunder. Accordingly, Sequoia National Park Stage Company was incorporated on or about August 25, 1926.

The corporation, which has an authorized capital stock of \$50,000, divided into 500 shares of the par value of \$100 each, all common, proposes to issue \$35,000 of such stock in payment for the operative rights referred to above and for the physical properties now in use, which are set forth in Exhibit "B," as follows:

Operative property—	Value
White bus -----	\$7,500 00
Packard twin, special -----	2,500 00
Packard twin, series 2-25 -----	2,500 00
Packard twin, special -----	1,250 00
Cadillac -----	1,500 00
White truck -----	3,000 00
Nonoperative—	
Tools, compressor, gas pumps and tank -----	500 00
Real property -----	1,200 00
Building -----	6,000 00
Jewett sedan -----	800 00
Packard truck, Model "E" -----	3,000 00
Garford truck -----	1,800 00
Reliance 4-wheel trailer -----	500 00
Graham 4-wheel trailer -----	500 00
Safe -----	75 00
Six chairs and oak desk -----	125 00
Filing cabinet and subfiles -----	60 00
Typewriter -----	70 00
Check protector -----	50 00
Cabinet, counter and office desk -----	150 00
Total -----	\$33,080 00

In addition to these items it is alleged that \$2,366 was expended in litigation in securing and protecting certificates, consisting of filing fees, attorney's fees, traveling and other expenses. Current assets and liabilities, which will be taken over by the corporation, appear to be nominal in amount.

A financial statement covering the operations for the year 1926 of the business and properties involved in this proceeding was filed with the Commission on March 25, 1927, showing the cost of the physical properties used at \$31,034.71 and a reserve for accrued depreciation of \$18,561.51, leaving a net figure of \$12,473.20. The valuation of \$33,080, filed as Exhibit "B," was prepared by U. D. Switzer, State Inheritance Tax Appraiser of the county of Tulare.

Giving consideration to this testimony and all the circumstances surrounding the proposed transfer of properties and issue of stock, it appears to us that the transfer of the operative rights should be authorized, but that the total amount of stock which the corporation should be authorized to issue at this time in payment for all of the properties referred to above should not exceed \$20,000. The distribution of this stock between the partners is a matter for them to determine.

I herewith submit the following form of order:

ORDER.

A public hearing having been held on the above entitled matters and the Railroad Commission being of the opinion that Case No. 2342 should be dismissed, and that Application No. 13576 should be granted as to the extent indicated in this order and subject to the terms and conditions of said order, that the amount of stock herein authorized is reasonably required for the purposes specified herein and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income; therefore,

It is hereby ordered, that the complaint filed in Case No. 2342 be and the same is hereby dismissed.

It is hereby further ordered, that Orval Overall and E. L. Askin, copartners, doing business under the firm name and style of Sequoia National Park Stage Company, be and they hereby are authorized to sell and transfer to Sequoia National Park Stage Company, a corporation, the certificates of public convenience and necessity and other properties referred to in the foregoing opinion, and Sequoia National Park Stage Company, a corporation, be and it hereby is authorized to issue not exceeding \$20,000 of stock in payment for such certificates and the physical and other properties referred to in said opinion, subject to outstanding indebtedness.

The authority herein granted is subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2. Applicants Orval Overall and E. L. Askin shall immediately unite with applicant Sequoia National Park Stage Company, a corporation,

in common supplement to the tariffs on file with the Commission, applicants Orval Overall and E. L. Askin on the one hand withdrawing and applicant Sequoia National Park Stage Company, a corporation, on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicants Orval Overall and E. L. Askin shall immediately withdraw time schedules filed in their name with the Railroad Commission and applicant Sequoia National Park Stage Company, a corporation, shall immediately file, in duplicate, in its own name, time schedules covering service heretofore given by applicants Orval Overall and E. L. Askin, which time schedules shall be identical with time schedules now on file with the Railroad Commission in the name of applicants Orval Overall and E. L. Askin, or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicant Sequoia National Park Stage Company, a corporation, unless such vehicle is owned by said applicant or is leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. Applicant Sequoia National Park Stage Company, a corporation, shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file within thirty days after such issue a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the application in so far as it involves the issue of \$15,000 of stock be and it hereby is dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-seventh day of June, 1927.

DECISION No. 18551.

IN THE MATTER OF THE APPLICATION OF AYRES-WHITESIDE TRANSPORTATION COMPANY, A COPARTNERSHIP, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO ENLARGE THE PRESENT OPERATIVE RIGHTS AND TO INCREASE RATES.

Application No. 13430.

Decided June 27, 1927.

CERTIFICATE—CARRIER BY WATER—INLAND WATERS—RATES.—Finding that Pittsburg and Antioch have more than adequate transportation facilities to serve present requirements, the application to extend service to these points is denied. Applicant's rates for present service being found unremunerative, an increase is granted.

W. G. Deal and R. H. Kimball, for Applicant.

W. H. Metson, for California Transportation Company and California Navigation and Improvement Company. Protestants.

Gwyn H. Baker, for Bay and River Boat Owners Association, Protestant.

W. S. Johnson, for Southern Pacific Company, Protestant.

L. H. Rodebaugh, for San Francisco-Sacramento Railroad, Protestant.

BY THE COMMISSION.

OPINION.

This is an application filed by the Ayres-Whiteside Transportation Company, a corpartnership operating vessels for the transportation of freight between San Francisco, Oakland, Alameda (Encinal terminals), West Berkeley, San Rafael and Sausalito on the one hand, and on the other Suisun, Benicia, Crockett and the intermediate points, seeking (a) a certificate of public convenience and necessity under the provisions of paragraph (d), section 50 of the Public Utilities Act, to enlarge and extend the present operative rights to include Pittsburg, Antioch and points between, and (b) to establish separate rates for Benicia and Suisun and make certain changes bringing about both increases and reductions in the present rates for the transportation of property as published in Tariff C. R. C. No. 3, set forth in Exhibit "B" of the application.

The California Transportation Company, Bay and River Boat Owners Association, Southern Pacific Company and San Francisco-Sacramento Railroad appeared in opposition to the granting of the application in so far as it related to the extension of the present service, upon the grounds that an adequate and efficient transportation service is now being rendered by the established lines serving Pittsburg, Antioch and the points intermediate thereto. There was no opposition to increasing the present rates in effect between the points now served by this applicant.

Public hearings were held before Examiner Geary at San Francisco February 24 and May 11, and before Examiner Handford at Pittsburg March 27, 1927, and the application having been duly submitted is now ready for an opinion and order.

The present operations of applicant, granted in Application No. 12577, Decision No. 16337, decided March 30, 1926, cover a service which is primarily devoted to the movement of small consignments of freight between points where ordinary vessels can not operate, particularly between wharves and vessels in the stream to Shipping Board

boats anchored near Benicia and to construction jobs at water points near the Carquinez Straits, where operations must be conducted in shallow waters. This is also true of the service rendered at points adjacent to San Rafael, Sausalito, Suisun, Benicia, Crockett and Port Costa.

The company now owns one vessel of 75 tons carrying capacity, and has under charter another of 175 tons capacity upon which it holds an option to purchase. These two boats are now in operation, and in addition thereto applicant has an option to purchase a larger vessel, of 250 tons carrying capacity.

The present service of applicant has been conducted since April 5, 1926, and during the period extending from that date until the end of the calendar year the annual report shows a total of 4166 tons of freight handled, for which an operating revenue of \$6,844.03 was received. The operating expenses during 1926 amounted to \$12,791.42, resulting in a net operating loss of \$5,947.39. Applicant testified the loss sustained in 1926 was attributable solely to the maintenance of the unremunerative rates established at the commencement of operations, which were experimental because, due to the peculiarities of the service, there was no guide by which the rates could be adequately measured. Applicant also testified that the traffic is increasing and that during the ensuing year it is estimated that between 14,000 and 15,000 tons of freight will be handled, as contrasted with the year 1926 when but 4166 tons were handled. This increased tonnage under the proposed rates should produce an operating revenue of about \$26,100, with an estimated operating expense of \$23,200, of which amount \$18,000 is for the operation of the boats, \$3,600 for salaries, \$800 for terminal expenses, \$600 for insurance and taxes, and \$200 for supplies, resulting in a net profit of \$2,900.

The proposed extension to include Pittsburg, Antioch and the intermediate points is for the purpose of rendering a service in the nature of that now performed by the established common carriers operating in this territory. It is not proposed to limit the new service to the carrying of small consignments of freight, but tonnage will be solicited regardless of weight or size. The operations will be on a daily schedule except Sunday, leaving Antioch at 3 p.m., Pittsburg 6 p.m., arriving San Francisco about 5 or 6 a.m. the following morning and Oakland about 1 p.m. the following afternoon. On the return trip the boats will leave Oakland and San Francisco between 3 and 6 p.m., arriving at Pittsburg and Antioch early the following morning.

It is estimated the capital necessary to inaugurate the proposed Pittsburg-Antioch service will be approximately \$100,000, and W. Q. Wright, A. A. Peters, Ralph Beebe, Charles Ayres and J. A. White-side as copartners have agreed collectively and individually to provide

not less than the above amount as the needs may arise. It is stated in the application that the first three named own one-quarter interest each and the last two named one-eighth interest each. In Application No. 12577, *supra*, a certificate of public convenience and necessity was granted only to Charles Ayres and John A. Whiteside, copartners operating under the fictitious name of the Ayres-Whiteside Company, hence it would appear that the other three named individuals now shown as copartners have never been authorized by this Commission to operate vessels on the inland waters of the State of California as required by section 50 (d) of the Public Utilities Act.

Applicant submitted in evidence letters from various shippers and industrial organizations endorsing the services now rendered and expressing the opinion that the additional service from and to Pittsburg and Antioch would be an advantage to these communities. With the exception of witnesses representing shippers of fish and fresh vegetables who testified that it was necessary to have their products in the San Francisco markets at approximately 3 o'clock in the morning in order to secure the best possible prices, the record is devoid of any showing that Pittsburg and Antioch are not now adequately served by the existing rail and water carriers operating from and to those points.

Pittsburg is now served on regular schedules by three rail carriers, Southern Pacific, Atchison, Topeka and Santa Fe Railway, and San Francisco-Sacramento Railroad, and by two water carriers, California Transportation Company and California Navigation and Improvement Company, also by numerous water carriers and truck lines operating on irregular schedules. Antioch is also served by the above named carriers with the exception of the San Francisco-Sacramento Railroad. The Southern Pacific Company and San Francisco-Sacramento Railroad render an overnight service from Pittsburg to Oakland and San Francisco. Likewise the California Transportation Company and California Navigation and Improvement Company operate on a daily schedule, leaving Pittsburg and Antioch late at night, arriving at San Francisco between 5 and 6 o'clock the next morning, and on the return trip leaving San Francisco at 6 p.m., and arriving at Pittsburg the following morning at about 1 a.m.

If applicant were to secure a sufficient tonnage from Pittsburg and Antioch to operate successfully, a substantial portion thereof would be taken from the established rail and water carriers now serving those two points.

The California Transportation Company maintains that during the year 1926 the operations of the steamers *Leader* and *Captain Webber*, devoted entirely to the territory between San Francisco and Martinez, Pittsburg, Antioch and points on the Mokelumne, Old and Middle rivers, were operated at an actual out-of-pocket loss of \$11,377.46 exclusive of

any amount being charged for depreciation or interest on the investment. The freight revenue was \$183,632.13 and passenger revenue \$6,954.65, a total operating revenue of \$190,586.78 against expenses during that same period of \$201,964.24.

The preponderance of evidence submitted in this proceeding shows that Pittsburg and Antioch now have transportation facilities more than adequate to serve the present day requirements. Under the provisions of paragraph (d), section 50 of the Public Utilities Act the burden is upon applicant to establish the fact that the proposed service would be in the public interest; it failed to sustain this burden.

After careful consideration of the facts of record we are of the opinion and find that applicant has failed to show that public convenience and necessity require the operation of vessels by it for the transportation of property from and to Pittsburg and Antioch, and that a certificate of public convenience and necessity for this service should be denied. We are of the further opinion and find that applicant should be authorized to establish for the transportation of property the proposed rates between the points now served as set forth on pages 5 and 6 of Exhibit "B."

In order that the Commission may be advised of the results flowing from the new rates, applicant will file within fifteen days after the first of each month for a period of six months a statement for the preceding month, setting forth in detail the total revenue received, total operating expenses, and the net operating revenue, segregated in accordance with the Commission's system of accounting.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that applicant, Ayres-Whiteside Transportation Company, a copartnership, be and it is hereby authorized to establish on not less than twenty days' notice to the Commission and the public rates for the transportation of property between San Francisco, Oakland, Alameda (Encinal terminals), West Berkeley, San Rafael and Sausalito on the one hand, and on the other Suisun, Benicia, Avon, Martinez, Port Costa, Crockett, Rodeo, Richmond and intermediate points as shown on pages 5 and 6 of Exhibit "B" attached to the application.

It is hereby further ordered, that the Ayres-Whiteside Transportation Company, a copartnership, be and it is hereby denied a certificate of public convenience and necessity to operate vessels for the transporta-

tion of property from and to Pittsburg, Antioch and the intermediate points.

Dated at San Francisco, California, this twenty-seventh day of June, 1927.

DECISION No. 18553.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING IT TO ISSUE AND PLEDGE ITS GENERAL AND REFUNDING MORTGAGE GOLD BONDS TO THE PAR VALUE OF ONE MILLION DOLLARS.

Application No. 1280.

Decided June 27, 1927.

SECURITIES—BONDS—TO ISSUE.—Decision No. 1756 having authorized the issuance of \$975,000 of general and refunding mortgage 5 per cent bonds as collateral, permission is given herein to sell the same, or to deposit and/or hypothecate same with trustees under mortgage to obtain release of moneys received through sale of Stockton water system.

BY THE COMMISSION.

SECOND SUPPLEMENTAL OPINION AND ORDER.

In its second supplemental petition filed in the above entitled matter on May 26, 1927, Pacific Gas and Electric Company asks the Railroad Commission to make an order permitting it to sell, at not less than 99 per cent of face value plus accrued interest, \$975,000 of its general and refunding mortgage 5 per cent bonds, heretofore issued under authority granted by Decision No. 1756, dated August 27, 1914, and to use the proceeds for general corporate purposes, and/or to deposit and hypothecate said bonds with the trustees under the mortgages or deeds of trust which constituted liens upon the properties comprising the Stockton water system.

In the original petition in this proceeding, filed August 14, 1914, Pacific Gas and Electric Company asked permission to issue \$1,000,000 of its general and refunding mortgage bonds and to pledge them to secure either corporate or individual sureties on two bonds which it desired to file in two suits pending in the District Court of the United States for the Northern District of California, one of the suits, *Pacific Gas and Electric Company vs. City and County of San Francisco*, Equity No. 27, having been brought to enjoin the enforcement of Ordinance No. 2348 of the board of supervisors of the city and county of San Francisco establishing gas rates for the year ending June 30, 1914, and the other, bearing the same title, but numbered Equity No. 32, having been brought to enjoin the enforcement of Ordinance No. 2349

of the board of supervisors of the city and county of San Francisco establishing electric rates for the same period.

In making this request the company reported that it was entitled to issue the \$1,000,000 of bonds under the terms of the trust indenture securing the payment of the general and refunding mortgage bonds and it agreed that during the time the \$1,000,000 of bonds were outstanding it would not reimburse its treasury with proceeds from the sale of bonds and stock in an amount equal to the \$1,000,000. The request to issue the bonds was thus predicated on capital expenditures made up to that time and not reimbursed through the issue of securities.

By Decision No. 1756, dated August 27, 1914, the Commission authorized applicant to issue the \$1,000,000 of bonds. It appears that such bonds actually were issued but that only \$875,000 were pledged for the purposes indicated herein. Of the remaining bonds \$25,000 were sold, under supplemental permission received by the company, and \$100,000 have remained in applicant's treasury. It is now reported that the parties in the two suits referred to herein have composed their differences and that they will cause judgment of dismissal to be entered. The United States Fidelity and Guaranty Company, surety under the indemnity bonds, has agreed to the release of the \$875,000 of bonds, which are on deposit with the American Trust Company, and the American Trust Company will reassign and transfer the bonds to applicant.

Upon reacquiring the bonds applicant proposes to sell them, together with the \$100,000 of bonds in its treasury, and to use the proceeds for general corporate purposes. As an alternative, however, it requests permission to deposit and hypothecate the bonds with the trustees under the mortgages or deeds of trust which constituted liens upon the Stockton water system, formerly belonging to it, for the purpose of obtaining the release from American Trust Company, as trustee under the mortgage executed by Blue Lakes Water Company, dated March 15, 1893, of moneys now on deposit which were received from the sale of the Stockton water system under the authority contained in Decision No. 18037, as modified.

We have given consideration to these requests and are of the opinion that a further hearing is not necessary and that the supplemental petition should be granted, as provided herein; therefore,

It is hereby ordered, that the order in Decision No. 1756, dated August 27, 1914, be and it hereby is modified so as to permit Pacific Gas and Electric Company to sell, on or before December 31, 1927, at not less than 99 per cent of face value plus accrued interest, \$975,000 of the general and refunding mortgage bonds authorized to be issued by said decision, and to use the proceeds for general corporate purposes, and/or

to deposit and hypothecate said bonds with the trustees under the mortgages or deeds of trust which constituted liens upon the Stockton water system for the purpose of obtaining the release of moneys received through the sale of the Stockton water system.

It is hereby further ordered, that the order in Decision No. 1756, dated August 27, 1914, shall remain in full force and effect except as modified by this order.

Dated at San Francisco, California, this twenty-seventh day of June, 1927.

DECISION No. 18560.

IN THE MATTER OF THE APPLICATION OF FRED A. BRALEY AND
E. T. GRUWELL FOR PERMISSION TO SELL THE OAK PARK
WATER COMPANY TO GUY B. HUMPHREY.

Application No. 13649.

Decided June 28, 1927.

TRANSFER—WATER UTILITY—SECURITIES—To ISSUE.—Fred A. Braley and E. T. Gruwell authorized to transfer Oak Park Water Company to Guy B. Humphrey, and the latter authorized to acquire the same, and to issue not exceeding \$10,000 of notes in payment therefor.

BY THE COMMISSION.

OPINION.

Fred A. Braley and E. T. Gruwell, doing business under the fictitious firm name and style of Oak Park Water Company, owning and operating a public utility water system supplying consumers residing in Tract No. 7747 and a portion of Lot 18 of Tract No. 901, in Los Angeles County, ask permission to sell the same to Guy B. Humphrey pursuant to the terms and conditions set forth in the agreement dated January 3, 1927, and filed in this proceeding.

A public hearing in this matter was held before Examiner Williams at Los Angeles, after all interested parties had been duly notified and given an opportunity to appear and be heard. At the hearing Guy B. Humphrey, the proposed purchaser, joined in the application.

The evidence shows that on or about January 3, 1927, Fred A. Braley and E. T. Gruwell entered into a written agreement with Guy B. Humphrey to sell to him the water system known as the Oak Park Water Company for the sum of \$10,000. The purchaser has agreed to pay for the same by the issue of four notes; one for \$3,103.72; one for \$4,896.28; one for \$1,000 and one for \$1,000. The notes are payable in monthly installments, the final payment being more than one year after date. The payment of the notes is to be secured by the execution of deeds of trust, copies of which have been filed with the Commission. The deeds of trust are in satisfactory form.

The cost of the water plant as of January 1, 1927, is reported at \$13,440. Applicant Guy B. Humphrey testified that he has been operating the plant since January; that it has 150 consumers; that the income is approximately \$280 per month; that the expense consists of a payment of \$50 per month to a man who operates the plant and approximately \$50 per month for repairs, power and other items. He testified further that he has a one-third interest in a plumbing business at Oceanside; also an interest in an apartment building; that his net worth at the time of the hearing was about \$10,000, and that he possessed the financial ability to maintain the plant and make his payments on the trust deeds, independent of the income from the water system. He testified that he had had experience, a number of years ago, in installing and operating water systems. He proposes to employ a man to operate the system under his personal supervision.

No one appeared to protest the granting of this application and it is apparent that the interests of the consumers will be best served by the authorization of the transfer.

ORDER.

Fred A. Braley and E. T. Gruwell, doing business under the fictitious firm name and style of Oak Park Water Company, having made application to the Railroad Commission for authority to transfer their public utility water system to Guy B. Humphrey, who joins in the application, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed in the premises;

It is hereby ordered, that Fred A. Braley and E. T. Gruwell be and they are hereby authorized to transfer to Guy B. Humphrey their property, rights and interests in the Oak Park Water Company as more particularly described in the agreement dated January 3, 1927, and filed in this proceeding; said transfer to be made pursuant to the terms and conditions of said agreement.

It is hereby further ordered, that said Guy B. Humphrey may purchase said water system, issue in payment therefor his notes in the amount of not exceeding \$10,000 and execute deeds of trust substantially in the same forms as the deeds of trust filed in this proceeding; provided, that the authority herein granted to execute said deeds of trust is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said deeds of trust as to such other legal requirements to which said deeds of trust may be subject.

It is hereby further ordered, that the authority herein granted shall be subject to the following conditions:

1. The authority herein granted shall apply only to such transfer as shall have been made on or before August 1, 1927, and a certified copy

of the instrument of conveyance shall be filed with this Commission by Fred A. Braley and E. T. Gruwell within thirty days from the date of this order.

2. Within twenty days from the date of this order Fred A. Braley and E. T. Gruwell shall notify in writing this Commission the date on which they actually relinquish control and possession of the property herein authorized to be transferred.

3. The consideration given for the transfer of this property shall not be urged before this Commission or any other public body as a finding of value of the property for rate fixing or for any purpose other than the transfer herein authorized.

4. The authority herein granted to transfer the property, issue the notes and execute the deeds of trust will become effective when Guy B. Humphrey has paid to the Commission the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this twenty-eighth day of June, 1927.

DECISION No. 18561.

IN THE MATTER OF THE APPLICATION OF ANDREW SORENSEN, DOING BUSINESS UNDER THE NAME OF A. SORENSEN, AND NIKOLINE SORENSEN, HIS WIFE, TO SELL, AND GREAT WESTERN POWER COMPANY OF CALIFORNIA TO PURCHASE A CERTAIN ELECTRICAL DISTRIBUTING SYSTEM.

Application No. 13858.

Decided June 28, 1927.

TRANSFER—ELECTRIC UTILITY—TO SELL.—Andrew S. and Nikoline Sorensen authorized to sell electric system in city of Oakland to Great Western Power Company for \$12,000 cash.

P. J. Noerager, for Andrew Sorensen and Nikoline Sorensen.
Chaffee E. Hall, for Great Western Power Company of California.

BY THE COMMISSION.

OPINION.

In the above entitled matter the Railroad Commission is asked to make an order authorizing Andrew Sorensen and Nikoline Sorensen to sell, and Great Western Power Company of California to purchase, for the sum of \$12,000, payable in cash, a certain electrical distributing system.

The application shows that Andrew Sorensen is engaged in the business of purchasing electric energy from Great Western Power Company of California and distributing it for domestic purposes in the city of Oakland in the district bounded on the east by Twenty-sixth avenue, on the north by East Twenty-second street, on the west by Twenty-third

avenue and on the south by Foothill boulevard and East Sixteenth street. Approximately 155 consumers are served.

At the hearing held in this matter R. A. Sharon, assistant to the vice president of the purchasing corporation, testified that the reproduction cost new of the properties was estimated at \$4,576, and the reproduction cost new, less depreciation, at \$3,265. It appears to be the intention of the purchaser, upon acquiring the properties, to reconstruct the same. It is estimated that the cost of reconstruction will be about \$4,150.

At the conclusion of the reconstruction Great Western Power Company of California will have expended approximately \$16,150 in purchasing the system and in reconstructing it. The cash outlay will thus be substantially in excess of the value of the properties, which may be stated at \$5,200, consisting of the rehabilitation cost of \$4,150 and the depreciated reproduction cost of \$1,050, of the meters which will be retained. It appears to us that public convenience and necessity will be served by the acquisition and operation of this system by Great Western Power Company of California. It should, however, submit to the Commission for approval its proposed book entries to record the final distribution of all expenditures in connection with the transaction.

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of the electrical distributing system referred to in the foregoing opinion, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the application should be granted, as herein provided; therefore,

It is hereby ordered, that Andrew Sorensen and Nikoline Sorensen, his wife, be and they are hereby authorized to sell and transfer to Great Western Power Company of California the electrical distributing system to which reference is made in the foregoing opinion and in this application, provided that the consideration being paid by Great Western Power Company of California shall not be urged before this Commission as representing the value of said properties for any purpose other than the transfer herein authorized.

It is hereby further ordered, that Great Western Power Company of California shall file with the Commission for approval within ninety days after the date hereof the book entries by which it proposes to record the transaction.

It is hereby further ordered, that the authority herein granted shall become effective on the date hereof and that within thirty days after the transfer of the properties the purchaser shall file with the Commission a

certified copy of the deed or other instrument under which it acquires and holds title to said properties.

Dated at San Francisco, California, this twenty-eighth day of June, 1927.

DECISION No. 18563.

T. J. NESTOR,

vs.

SAMUEL H. GERSON AND ALBERT E. HARRIS, INDIVIDUALLY AND AS COPARTNERS DOING BUSINESS AS WESTCO CHIPPEWA PUMP CO., AND SAMUEL H. GERSON, DOING BUSINESS AS THE GERSON WATER COMPANY.

Case No. 2293.

Decided June 28, 1927.

SERVICE—WATER UTILITY—INADEQUATE SUPPLY.—The principal matters complained of having been remedied as far as present conditions will permit, the complaint is dismissed.

C. Roy Smith, for Complainant.
Phil Jacobson, for Defendants.

BY THE COMMISSION.

OPINION.

T. J. Nestor, complainant in the above entitled case, is the original owner and subdivider of Tracts No. 6627 and No. 7148, in Los Angeles County, which are supplied with water by Samuel H. Gerson, doing business under the fictitious firm name and style of Gerson Water Company, and in his complaint alleges in effect that he is a consumer of this utility; that defendants have failed to pay the Southern California Edison Company for power furnished, resulting in the shutting off of the power and leaving the residents of said tracts without water until complainant himself paid the bill and induced the power company to resume service; that defendants now refuse to reimburse complainant for the money so paid to the power company; that defendants do not maintain an office on or near the tracts served, making it practically impossible to obtain service connections for many weeks after application therefor has been made; and that the system is neglected to such an extent that serious leaks have been allowed to run for months before repairs have been made. Complainant therefore requests the Commission to order defendant to make the necessary improvements to his system and operating methods to relieve the conditions complained of.

Defendants made no answer to the complaint.

A public hearing in this matter was held before Examiner Williams at Los Angeles, after all interested parties had been duly notified and given an opportunity to appear and be heard.

From the evidence it appears that this utility is owned and operated by Samuel H. Gerson and is not in any manner whatsoever a part of the properties or business of Westco Chippewa Pump Company, a copartnership composed of said Samuel H. Gerson and Albert E. Harris. As to said Harris and the pump company, therefore, this complaint may be dismissed.

Defendant Gerson admitted that the allegations set out in the complaint were true and explained that his failure to properly maintain and operate his water system was the result of recent severe financial reverses which he has suffered and which have resulted in legal attachment against all of his property, making it impossible for him either to dispose of his utility interests or obtain the funds necessary to carry on the business, the revenues from which are not sufficient to properly cover the operating costs.

From the testimony it appears that arrangements have now been made to cover the necessary repairs and continue the operation of the system until such time as the legal disabilities have been removed permitting defendant to assume full control over his properties.

On December 1, 1926, the Commission upon its own motion instituted an investigation into the affairs of the defendant in so far as they related to his public utility operations.

In view of the unfortunate and unusual circumstances involving defendant, there is little that can be done at this time. The most serious causes of complaint having now been remedied as far as present conditions will permit, it appears therefore that this case may be dismissed. The matter of the investigation on the Commission's own motion, however, will be retained in its present status until such time as the entire matter may be satisfactorily disposed of. However, in the meantime, defendant should take immediate steps to appoint someone living at a point readily accessible to the tracts served who can receive payments for water bills, accept and take care of applications for new service connections and who can receive complaints and take charge of emergency repairs and other such kindred matters.

ORDER.

T. J. Nestor having made complaint against Samuel H. Gerson, doing business under the fictitious firm name and style of Gerson Water Company, a public hearing having been held, the matter having been submitted and the Commission being now fully advised thereon;

It is hereby ordered, that the above entitled proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-eighth day of June, 1927,

DECISION No. 18566.

IN THE MATTER OF THE APPLICATION OF THE REEDLEY TELEPHONE COMPANY FOR PERMISSION TO PURCHASE, AND TRUSTEES OF THE GENERAL GRANT PARK TELEPHONE CO. FOR PERMISSION TO SELL, A PORTION OF ITS TELEPHONE LINES, AND FOR THE LATTER TO ABANDON OR OTHERWISE DISPOSE OF THE BALANCE OF ITS LINES, AND FOR A RATE TO BE ESTABLISHED FOR TOLL SERVICE BETWEEN REEDLEY, GENERAL GRANT NATIONAL PARK AND WILSONIA.

Application No. 13667.

Decided June 30, 1927.

TRANSFER—TELEPHONE UTILITY—RATES—TO ESTABLISH.—General Grant Park Telephone Company authorized to sell telephone lines and equipment, extending from Miramonte to General Grant National Park, and from Miramonte to Badger, and to serve these points from Reedley over its own lines. Rates established on the same basis as applies to remainder of Reedley system.

A. Terkel, for Applicant, Reedley Telephone Company.

J. H. McCracken and H. L. Andrews, for Applicants, General Grant Park Telephone Company.

BY THE COMMISSION.

OPINION.

Reedley Telephone Company, a corporation, hereinafter referred to as the Reedley Company, petitions the Railroad Commission for an order authorizing it to purchase a portion of the telephone system owned by the General Grant Park Telephone Company, to make the necessary connections to its lines to permit it to render telephone service in General Grant National Park, Wilsonia and Badger, and to file and make effective certain rates for telephone service to and from these points. General Grant Park Telephone Company, a corporation, hereinafter referred to as the Park Company, asks authority to sell a certain portion of its telephone system to the Reedley Company and to dispose of the remaining portion of its present property as best it can.

A public hearing in this matter was held at Dinuba before Examiner Gannon on May 27, 1927.

The Park Company was organized for the purpose of rendering toll telephone service between Dinuba, Tulare County, and certain points in Tulare and Fresno counties, namely, Drum Valley and Badger, Tulare County, and Miramonte, General Grant Park Headquarters and Wilsonia, Fresno County. Local exchange service was to be provided by central office switchboards located at points where demand for this service was expected. The Park Company constructed a main pole lead extending from the vicinity of Orosi, Tulare County, to Wilsonia, via Drum Valley, Miramonte and General Grant Park Headquarters and a branch pole lead from Miramonte to Badger. Two metallic iron circuits were strung by the Park Company from a connection with the system of The Pacific Telephone and Telegraph

Company at Dinuba to Miramonte and single metallic circuits were extended from Miramonte to Badger and to Wilsonia. Central office switchboards were installed at Miramonte and Wilsonia and an additional metallic circuit was strung from Wilsonia to General Grant Park Headquarters. Operation of its telephone system as a public utility was commenced by the Park Company in the latter part of the year 1923, but, according to statements of its witnesses at the hearing in this proceeding, such operation has not resulted in a profit to the Park Company. Testimony showed that revenue accrued over the period during which the system has been in use has not been sufficient to meet operating expenses and the Park Company now has total obligations of from \$1,500 to \$2,000.

The Reedley Company has operated, for a number of years past, a metallic telephone circuit extending from its central office in Reedley to Pinehurst via Navalencia, Squaw Valley, Dunlap and Miramonte, all in Fresno County, and now proposes to acquire the property of the Park Company extending from Miramonte into General Grant National Park and from Miramonte to Badger, and make rearrangements necessary to serve these points from Reedley over its own line rather than over the Park Company's lines from Miramonte to Dinuba as at present. The consideration agreed upon by applicants for the transfer of that portion of the system desired by the Reedley Company is \$3,000 in 7 per cent bonds of the Reedley Company.

It should be said, however, in this connection, that the Reedley Company has not asked permission to issue the \$3,000 of bonds. The matter of issuing the bonds should be made the subject matter of an amended application in this or some other proceeding.

F. M. Casal, assistant engineer, Telephone and Telegraph Division of the Commission's Engineering Department, gave testimony at the hearing as to value of the property proposed to be transferred by the Park Company to the Reedley Company. He presented an appraisal of this property showing a total value of \$3,903 on the historical reproduction cost basis, undepreciated, as of July 21, 1925. According to Mr. Casal's inventory, the property which the Reedley Company proposes to purchase consists of the following principal items:

- 2 Kellogg Switchboard and Supply Company wall type telephone switchboards.
- 6 K. S. & S. Co. magneto telephone sets, desk type.
- 5 K. S. & S. Co. magneto telephone sets, desk type.
- 11 Station installations.
- 332 Round native cedar poles.
- 32 4-pin crossarms.
- 28 Anchors.
- 37 Guys.
- 14.2 Wire miles, No. 9 B.W.G. E.B.B. galvanized iron wire.
- 8.0 Wire miles, No. 12 B.W.G. E.B.B. galvanized iron wire.

The Reedley Company does not desire to operate the central offices

which were established by the Park Company at Miramonte and Wilsonia but proposes to serve these points as toll stations. In addition, it seeks to establish a new toll station, to be known as Camp Gaines, at Sequoia Lake. The Reedley Company further asks the Railroad Commission to authorize a so-called "other line" initial charge for three-minute period of 75 cents for "station to station" toll telephone service between Reedley and General Grant National Park or Wilsonia. The record shows that there are not, at present, any subscribers being provided with exchange telephone service from either of the two exchanges which it is proposed to abandon and there appears no good reason why such exchange service should not be discontinued. The rates at present on file by the Park Company for toll telephone service between Dinuba and General Grant National Park provide for an initial rate of 25 cents for a five-minute initial period, "station to station" service. The present rate of the Reedley Company for toll telephone service between Reedley and Miramonte is 25 cents for an initial period of five minutes. Furthermore, charges for through toll telephone service, that is, where the lines of The Pacific Telephone and Telegraph Company and the lines of either Reedley Company or Park Company are involved, are based upon air line distances between points, while the Reedley Company, in this proceeding, asks for an "other line" rate to General Grant National Park which contemplates the addition of the rates of the two connecting companies in computing the through charge. The air-line distance from Reedley to Miramonte is 24 miles, more or less, while the approximate air line distance from Miramonte to General Grant National Park is 6 miles. A. Terkel, witness for Reedley Company at the hearing, suggested that the rate for toll service between Miramonte and General Grant National Park be based on approximately one-tenth of the proposed rate between Reedley and the Park or be fixed at 10 cents. The establishment of rates proposed by the Reedley Company, without further investigation, would be in violation of section 24 (b) of the Public Utilities Act of this state and can not be considered in this proceeding. It is implied that the rates of the Park Company were too low and resulted in the alleged failure of the Park Company to succeed as a business enterprise. The Reedley Company did not make any showing in this proceeding, tending to prove that the basis upon which its toll structure rests is incorrect or that the present rates charged by it for toll telephone service are unjust and unreasonable. In the absence of a showing by Reedley Company, tending to justify its proposed rate, we are of the opinion that rates for toll telephone service to and from General Grant National Park and Badger should be fixed on the same basis as other toll rates already filed by the Reedley Company and the order following will so provide.

The Park Company asked, at the hearing, that its application be amended to show its request for an order of the Railroad Commission, permitting it to abandon its public telephone utility operations and to cancel all its rates and tariffs for such service. No one offered any objection to the granting of the petition of the Park Company except some of that company's creditors. Mr. Andrews, treasurer of the Park Company, testified that it was the company's intention, if its request be granted, to use the proceeds from the sale of the Reedley Company's bonds, which it will receive as a result of the property transfer, to satisfy its obligations. In our opinion, the petition of the Park Company should be granted as made.

ORDER.

General Grant Park Telephone Company, having applied to the Railroad Commission for permission to abandon public utility operations and to sell a certain portion of its telephone properties to Reedley Telephone Company and Reedley Telephone Company having asked permission to acquire such properties and to file rates for service over such properties, a public hearing having been held and the Railroad Commission being of the opinion that this application should be granted as herein provided;

It is hereby ordered, that General Grant Park Telephone Company be and it is hereby authorized to sell and transfer to the Reedley Telephone Company the telephone properties listed and referred to in this application and that Reedley Telephone Company be and it is hereby authorized to acquire said properties.

It is hereby further ordered, that Reedley Telephone Company be and it is hereby authorized to furnish, on and after the date it acquires the telephone properties herein referred to, telephone service, as hereinafter set forth, in the area now served by General Grant Park Telephone Company and that General Grant Park Telephone Company be and it is hereby authorized to discontinue and abandon its public telephone utility operations, over its entire system, on and after the date it transfers the properties, to which reference is made herein, to Reedley Telephone Company and to cancel and withdraw, as of that date, all of its rates and tariffs for telephone service.

The authority herein contained is granted subject to the following conditions and not otherwise:

(1) The transfer of telephone properties herein referred to shall be made on or before October 1, 1927.

(2) The consideration for which the telephone properties are herein authorized to be transferred shall not be urged before this Commission or any other public body as a measure of value of such properties for rate fixing or any purpose other than this transfer.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

(3) Reedley Telephone Company shall file with this Commission a certified copy of the deed or other instrument of transfer by virtue of which it acquires title to the properties it is authorized to purchase within thirty days after such deed or instrument is executed.

It is hereby further ordered, that Reedley Telephone Company, on the date it acquires the properties herein referred to, shall make the necessary physical connections at or near Miramonte, Fresno County, to provide for direct telephone service over its Reedley-Dunlap-Miramonte circuit to and from points in General Grant National Park at Badger, and, as of said date, shall establish and place in operation telephone stations at Badger, General Grant National Park Headquarters at Wilsonia.

It is hereby further ordered, that Reedley Telephone Company, and it is hereby authorized to discontinue, on and after the date it acquires the properties herein authorized to be transferred, the exchanges at Miramonte and Wilsonia, formerly operated by General Grant Park Telephone Company, and to establish and place in operation, on and after said date, a toll station to be known as Camp Gaines, at Sequoia Lake, Fresno County, and to publish, and place in effect rates for service to and from such toll station similar to rates applicable to other points on the Reedley Telephone Company's toll system, provided that said exchanges are discontinued and said toll station is opened and placed in operation within thirty days after the aforesaid date of acquisition of telephone properties.

It is hereby further ordered, that Reedley Telephone Company shall charge and collect the rates for telephone and telegraph service set forth in Exhibit A, attached hereto, effective as of the date of transfer of the telephone properties herein authorized, and that Reedley Telephone Company shall file with the Railroad Commission said rates for telephone and telegraph service within thirty days of the date of said transfer.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this thirtieth day of June, 19

EXHIBIT "A"

TOLL TELEPHONE RATES AND TELEGRAPH RATES.

Toll Service Schedule No. B-1.

General Service.

Applicable to station-to-station, person-to-person, appointment and messenger interchange telephone service between any two toll points of the Reedley Telephone Company.

Base Rate.

Station-to-station day service initial rates, applicable between any two of the following points:

Between	and	General Grant National Park Headquarters.	Wilsonia.
Reedley	-----	\$0 25	\$0 25
Navalencia	-----	20	20
Squaw Valley	-----	15	20
Dunlap	-----	10	10
Miramonte	-----	10	10
Pinehurst	-----	10	10
Camp Munroe	-----	10	10
General Grant National Park Headquarters	-----	—	10
Wilsonia	-----	10	—

Initial Period and Overtime Period.

Where the initial rate is	The initial period is	The overtime period is
\$0 10	5 minutes	3 minutes
15	5 minutes	2 minutes
20	5 minutes	2 minutes
25	5 minutes	1 minute
30	3 minutes	1 minute

Overtime Rate.

Where the initial rate is	The overtime rate is
\$0 10	\$0 05
15	05
20	05
25	05
30	10

*Person to Person, Appointment and Messenger Rate and Report Charge.**Rate for initial period of 3 minutes or less.*

Station-to-station day service rates	Corresponding completed person-to-person rate	Corresponding completed appointment and messenger rate	Corresponding report charge
\$0 10	\$0 15	\$0 20	\$0 05
15	20	25	10
20	25	30	10
25	30	35	10

Rate for periods in excess of the initial 3-minute period.

Where the initial rate is	The overtime period is	The overtime rate is
\$0 15	1 minute	\$0 05
20	1 minute	05
25	1 minute	05
30	1 minute	10
35	1 minute	10

Night Rates.

Station-to-station night rates are the same as station-to-station day rates.

Through Toll Service.

Between toll points on the line of the Reedley Telephone Company and toll points on the lines of The Pacific Telephone and Telegraph Company.

The rates for any of the classes of toll service specified herein between toll points on the line of the Reedley Telephone Company and toll points on the lines of The Pacific Telephone and Telegraph Company or the through rates quoted by The Pacific Telephone and Telegraph Company on file with the Railroad Commission of the State of California.

*Telegraph Service Schedule No. C-1.**General Service.*

The company will accept for transmission and delivery messages of the classes and at the rates specified in the following, subject to the conditions herein set forth, between any two points on the company's system.

Rate—

<i>Service.</i>	<i>Rate.</i>
Telegrams -----30	cents for the first 10 words or less and 2½ cents for each additional word.
Day Letters -----45	cents for the first 50 words or less and 9 cents for each additional 10 words.
Night Letters -----30	cents for the first 50 words or less and 6 cents for each additional 10 words.

Description of Service.

Telegrams—

A full-rate expedited service.

Day Letters—

A deferred day service at rates lower than the standard telegram rates as follows: One and one-half times the standard night letter rate for the transmission of 50 words or less and one-fifth of the initial rate for each additional 10 words or less.

Night Letters—

Accepted up to 2 a.m. for delivery on the morning of the ensuing business day, at rates still lower than the standard night message rates, as follows: The standard telegram rate for 10 words shall be charged for the transmission of 50 words or less, and one-fifth of such standard day rate for 10 words shall be charged for each additional 10 words or less.

Conditions.

Free delivery of messages will be made to addresses at company exchanges when such free delivery may be made by telephone. When free delivery can not be made by telephone, the company does not undertake to make delivery, but will, without liability, at the sender's request, as his agent, and at his expense, endeavor to contract for him for delivery at a reasonable rate.

Day letters may be forwarded by the company as a deferred service and the transmission and delivery of the same is, in all respects, subordinate to the priority of transmission and delivery of regular telegrams.

Day letters will be received subject to the express understanding and agreement that the company does not guarantee that a day letter shall be delivered on the day of its date absolutely and at all events; but that the company's obligation in this respect is subject to the condition that there shall remain sufficient time for its transmission and delivery on the day of its date during regular office hours, subject to the priority of transmission of regular telegrams under the conditions named above.

Night letters may, at the option of the company, be mailed at destination to the addressees, and this company shall be deemed to have discharged its obligation in such cases with respect to delivery by mailing such night letters at destination, postage prepaid.

All day letters and night letters shall be written in plain English on blanks which will be furnished by the company. Except as to telegrams, code language is not permissible.

DECISION No. 18567.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, STANDARD GAS AND ELECTRIC COMPANY, A CORPORATION, AND THE CALIFORNIA-OREGON POWER COMPANY, A CORPORATION, FOR AN ORDER OR ORDERS OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING AND CONFERRING UPON PACIFIC GAS AND ELECTRIC COMPANY AND THE CALIFORNIA-OREGON POWER COMPANY THE PERMISSION AND AUTHORITY REQUESTED IN THIS APPLICATION.

Application No. 13805.

Decided June 30, 1927.

TRANSFER—ELECTRIC UTILITY—STOCK—TO PURCHASE—TO ISSUE.—Pacific gas and Electric Company authorized to acquire from Standard Gas and Electric Company and to hold common stock of Sierra and San Francisco Power Company, Western States Gas and Electric Company, a California corporation, Western States Gas and Electric Company, a Delaware corporation; Coast Valleys Gas and Electric Company, and Del Monte Light and Power Company, and to take over and operate the properties of said corporations.

SECURITIES—STOCK—TO ISSUE.—Pacific Gas and Electric Company authorized to issue 260,000 shares of its common capital stock, and \$2,085,000 in cash, in payment therefor, and to assume the obligations of the acquired corporations.

CONTRACT—ELECTRIC POWER—TO PURCHASE.—Pacific Company authorized to purchase from California-Oregon Power Company for a period of 25 years the output from 10,000 kilowatts of hydro-electric generating capacity, in addition to the contract under which Pacific Company is now purchasing from California Oregon Company 12,500 kilowatts of electric energy, which the Pacific Company has agreed to renew.

C. P. Cutten, for Pacific Gas and Electric Company.

Chickering and Gregory, by *Allen Chickering*, for Standard Gas and Electric Company.

Brobeck, Phleger and Harrison, by *Herman Phleger*, for The California-Oregon Power Company.

Scott McArthur, in propria persona.

BY THE COMMISSION.

OPINION.

The Pacific Gas and Electric Company, hereinafter sometimes referred to as "Pacific Company," the Standard Gas and Electric Company, hereinafter sometimes referred to as "Standard Company" and The California-Oregon Power Company, hereinafter sometimes referred to as "California-Oregon Company" asked the Railroad Commission to authorize them to perform the following acts:

1. To permit the Pacific Company to purchase from the Standard Company the following stocks:

- a. 200,000 shares (\$20,000,000 par value) of the common capital stock of Sierra and San Francisco Power Company.
- b. 7515 shares (\$751,500 par value) of common capital stock of Western States Gas and Electric Company, a California corporation.
- c. 32,532 shares (\$3,253,200 par value) of common capital stock of Western States Gas and Electric Company, a Delaware corporation.
- d. 30,000 shares (\$3,000,000 par value) of common capital stock of Coast Valleys Gas and Electric Company.
- e. 250 shares (\$25,000 par value) of capital stock of the Del Monte Light and Power Company.

2. To permit the Pacific Company to purchase from the Standard Company and/or its subsidiary corporations, all land, contracts, option, water and other rights, and legal, accounting and engineering data, including all rights, interests, property and data of every character hitherto acquired, connected with a certain power project on the South and Middle Forks of the Feather River in California, of which the Bean Creek Project is a part, subject, however, to all obligations existing May 1, 1927.

3. Authorizing the Pacific Company to issue 260,000 shares (\$6,500,000 par value) of its common capital stock in accordance with the provisions in the Public Utilities Act.

4. Authorizing the Pacific Company to consummate the agreement of April 27, 1927 (Exhibit "D"), in accordance with its terms and conditions.

5. Authorizing the Pacific Company and The California-Oregon Company to enter into power contracts as provided in paragraph 3 of the agreement of April 27, 1927 (Exhibit "D").

Through the granting of this application and the execution of the agreement filed in this proceeding as Exhibit "D," the Pacific Company will acquire control of the Western States Gas and Electric Company of Delaware and through it of the Western States Gas and Electric Company of California, of the Sierra and San Francisco Power Company, of the Coast Valleys Gas and Electric Company and of the Del Monte Light and Power Company. In purchasing the stocks, to which reference has been made, the Pacific Company, according to the record, merely steps into the position heretofore occupied by Standard Gas and Electric Company with respect to the control exercised by the latter through ownership of stocks. The acquisition of such stocks, it is said, will bring about no immediate change in the status of the several corporations or any change in contractual or rather obligations except that the contract under which the Byllesby Engineering and Management Corporation of Chicago now supervises the engineering and operation of the companies will be cancelled and such supervision exercised directly by Pacific Gas and Electric Company through its existing organization.

The Commission in general is familiar with the properties of the Western States Gas and Electric Company, Sierra and San Francisco Power Company, Coast Valleys Gas and Electric Company and Pacific Gas and Electric Company. The Sierra and San Francisco Power Company properties are operated by the Pacific Gas and Electric Company under a lease which this Commission authorized by Decision No. 7032 in Application No. 5146. The lease is for a period of fifteen years from and after January 1, 1920. Prior to the execution of such lease the Sierra and San Francisco Power Company, as a public utility, engaged, among other things, in the generation, transmission and distribution of electric energy for light, heat and power purposes in the Mother Lode District, Tuolumne and Calaveras counties, and in the counties of Stanislaus, San Joaquin, Contra Costa, Alameda, Santa Clara, San Mateo, San Benito and Monterey and in the city and county of San Francisco.

The Western States Gas and Electric Company is a public utility engaged in the business of producing, generating, transmitting, and selling electric energy, gas, and, to a small extent, water to the public in northern and central California. This company furnishes and sells electrical energy in the counties of San Joaquin, Humboldt, Trinity, Sacramento, Calaveras, Amador, El Dorado and Contra Costa; and generates and distributes gas in the city of Eureka, Humboldt County, and in the city of Stockton, San Joaquin County, and distributes water to four or five consumers along the Placerville Ridge, El Dorado County. The Western States Gas and Electric Company, through stock

ownership, controls the El Dorado Power Company, which is the owner of a certain hydro-electric plant and properties located on the South Fork of the American River, consisting of American River Power House, El Dorado Power House and storage reservoirs and appurtenances.

Coast Valleys Gas and Electric Company is a public utility engaged in the business of generating, distributing and delivering gas at Monterey, Pacific Grove and Salinas, and in the transmission, distribution and sale of electric energy in Monterey, Pacific Grove, Salinas, King City, Carmel, San Ardo, Castroville and a large part of Monterey County and a portion of San Benito County. It also distributes water in Salinas and King City.

The Pacific Gas and Electric Company has, since January 1, 1920, operated the properties of Sierra and San Francisco Power Company. The Coast Valleys Gas and Electric Company obtains its electric energy from the Pacific Gas and Electric Company—Sierra and San Francisco system. The electric systems of Western States Gas and Electric Company and Pacific Gas and Electric Company are also interconnected. Though the electric systems of the several companies are interconnected and in some instances properties of one company surround the properties of another, there is practically no property which, because of duplication, would be abandoned in the event of consolidation.

In Exhibit No. 3, prepared by J. T. Ryan, valuation engineer of the Pacific Gas and Electric Company, the reproduction cost new of the physical properties of the Western States Gas and Electric Company, Coast Valleys Gas and Electric Company and Sierra and San Francisco Power Company are reported as follows:

Western States Gas and Electric Company; as of

March 31, 1927:

Electric department capital.....	\$20,366,879 00
Gas department capital.....	4,291,461 00
General capital	627,962 00
Materials and supplies.....	382,867 00
Additions and betterments, April, 1927.....	139,443 00

Total, as of April 30, 1927..... \$25,808,612 00

Coast Valleys Gas and Electric Company; as of

March 31, 1927:

Electric department capital.....	\$3,176,162 00
Gas department capital.....	926,326 00
Water department capital.....	405,546 00
General capital	946,651 00
Materials and supplies.....	157,915 00
Additions and betterments, April, 1927.....	73,281 00

Total, as of April 30, 1927..... 5,685,881 00

Sierra and San Francisco Power Company; as of

April 30, 1927:

Electric department capital.....	\$26,743,302 00
Water department capital.....	945,657 00
All department capital.....	4,529 00

Non-operative properties-----	\$726,510 00	
Materials and supplies-----	8,145 00	
Total, Sierra and San Francisco Power Company-----		\$28,428,143 00
Total, physical properties as of April 30, 1927-----		\$59,922,636 00
Present value of La Grange contract; as of April 30, 1927 (S. & S. F. Pr. Co.)-----	\$487,500 00	
Less amounts included in inventory accounts for La Grange Plant (S. & S. F. Pr. Co.)-----	380,984 00	
Net value of La Grange contract-----		106,516 00
Total, as of April 30, 1927-----		\$60,029,152 00

It is of record that the reproduction cost new, as stated herein, does not include any organization expenses, development costs, value for water rights or other intangible values. To the estimated reproduction cost of the physical properties reported at \$60,029,152 should be added the actual expenditures of \$490,133.51 (as of May 31, 1927) on a certain power project on the South and Middle Forks of the Feather River, which the Pacific Gas and Electric Company is acquiring, and the excess (\$841,511.93) of current assets over current liabilities, making a grand total of \$61,360,797.44. The amount which the Pacific Gas and Electric Company is paying for the control of the Western States Gas and Electric Company, Sierra and San Francisco Power Company and Coast Valleys Gas and Electric Company and for the Feather River project and the amount of stocks and bonds of those companies left outstanding is as follows:

Stock and cash given in purchase:		
Pacific Gas and Electric Co. common stock, at par--	\$6,500,000 00	
Cash-----	2,085,000 00	\$8,585,000 00
Securities left outstanding:		
Bonds outstanding, Western States of California--	\$17,051,000 00	
Bonds outstanding, Sierra Co.-----	19,956,000 00	
Bonds outstanding, Coast Valleys-----	1,813,000 00	38,820,000 00
Preferred stock outstanding, Western States of Delaware-----	\$2,125,000 00	
Preferred stock outstanding Western States of California-----	4,625,000 00	
Preferred stock outstanding Coast Valleys-----	2,530,500 00	9,280,500 00
		\$56,685,500 00
Balance owing by Sierra and San Francisco Power Co. to Pacific Gas and Electric Co. on "Capital expenditures account" under lease (in dispute)-----	4,320,061 00	
		\$61,005,561 00

The project referred to as the Feather River project consists of four units known as the Nelson Point development, the Middle development, the Bean Creek development and Bidwell's Bar development. It contemplates three storage reservoirs known as Gold Lake Reservoir, Clio Reservoir and Grizzly Reservoir. It is estimated that the four units will have a capacity of 360,198 horsepower. The testimony shows that up to May 31, 1927, the sum of \$490,133.81 was expended on the

project. It is believed the project as a whole can be developed at a cost of \$117.50 per horsepower. The Sierra and San Francisco Power Company, it is reported, has undeveloped hydro-electric power sites capable of producing about 100,000 horsepower and Western States Gas and Electric Company 86,042 horsepower. Through the proposed transaction the Pacific Gas and Electric Company will obtain undeveloped hydro-electric power sites having an estimated capacity of about 546,000 horsepower.

For the properties to which reference has been made herein, the Pacific Company has agreed to issue and deliver to the Standard Company as fully paid, 260,000 shares (\$6,500,000 par value) of its common stock of the par value of \$25 per share and has agreed to pay to the said Standard Company \$2,085,000 in cash. The Pacific Company has also agreed to purchase from The California-Oregon Company for a period of twenty-five years the output from 10,000 kilowatts of hydro-electric generating capacity upon the terms and conditions and at the same rate as the Pacific Company is now purchasing electric energy from said The California-Oregon Company under a certain agreement dated May 20, 1924, which was executed pursuant to the authority granted in Decision No. 13627. The Pacific Company has further agreed to renew upon its expiration in 1929, for the period of twenty-five years, that certain agreement entered into by and between California-Oregon Power Company, Northern California Power Company, Consolidated and Pacific Gas and Electric Company, dated June 11, 1918, as modified, under which agreement the Pacific Company is now purchasing from California-Oregon 12,500 kilowatts of electrical energy. The agreement of June 11, 1918, was executed pursuant to the authority by Decision No. 5375, dated May 2, 1918.

W. E. Creed, president of Pacific Gas and Electric Company, testified that he gave little consideration to the physical properties of the companies other than satisfy himself that they were adequate and in good condition. The valuable thing, from the standpoint of the Pacific Gas and Electric Company is, according to his testimony, the addition of about \$8,000,000 of business and the opportunity such added business gives his company to reduce its overhead costs.

It is of record that the consolidation of the properties referred to under the control and management of the Pacific Company will make possible economies of operation resulting in the reductions in the cost of service, which ultimately will work to the advantage and benefit of the consumers of the different companies. It is believed that a saving of \$332,865 (Exhibit No. 2) can be effected forthwith and that a further saving of \$175,000 can be brought about by refinancing in whole or in part the properties of the Western States Gas and Electric Company, Sierra and San Francisco Power Company, and Coast Valleys Gas

and Electric Company. Additional economies will probably be realized from discontinuing the special construction organization at Placerville, by the improvement in load factor on crews and equipment at Stockton, Lodi and Richmond where two separate organizations are now maintained; by better and more complete utilization of hydro output from plants of Western States Gas and Electric Company and the unrestricted interchange of energy between the two systems; by the use at Eureka of surplus hydro power from Pacific Gas and Electric Company system to supplant electric energy generated by steam.

ORDER.

Applicants, Pacific Gas and Electric Company, Standard Gas and Electric Company and The California-Oregon Power Company, having requested permission to perform the acts referred to in the opinion which precedes this order, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that this application should be granted as herein provided; that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by the Pacific Gas and Electric Company for the purpose stated herein and that such purpose is not in whole or in part reasonably chargeable to operating expenses or to income; therefore,

It is hereby ordered, as follows:

1. Pacific Gas and Electric Company may acquire and hold the following capital stock:

- a. \$20,000,000 par value of common stock of Sierra and San Francisco Power Company.
- b. \$751,500 par value of common stock of Western States Gas and Electric Company, a California corporation.
- c. \$3,253,200 par value of common stock of Western States Gas and Electric Company, a Delaware corporation.
- d. \$3,000,000 par value of common stock of Coast Valleys Gas and Electric Company.
- e. \$25,000 par value of capital stock of Del Monte Light and Power Company.

2. Pacific Gas and Electric Company may purchase and acquire from the Standard Gas and Electric Company and/or its subsidiary corporations, all land, contracts, option, water and other rights, and legal, accounting and engineering data including all rights, interests, property and data of every character hitherto acquired, connected with a certain power project on the South and Middle Forks of the Feather River in California, of which the Bean Creek Project is a part, subject, however, to all obligations existing May 1, 1927.

3. Pacific Gas and Electric Company may issue and deliver to the Standard Gas and Electric Company as fully paid and as part consideration for the stock, property and rights which said Standard Gas and Electric Company has agreed to sell to the Pacific Gas and Electric Company, 260,000 shares of its common capital stock of the par value of \$25 per share and of an aggregate par value of \$6,500,000.

4. Pacific Gas and Electric Company may perform such further acts as may be necessary to consummate the agreement of April 27, 1927 (Exhibit "D"), in accordance with its terms and conditions.

5. Pacific Gas and Electric Company and The California-Oregon Power Company may execute an agreement substantially in the same form as the agreement filed in this proceeding and marked Exhibit 4 and may execute such further agreements as are contemplated by paragraph three of Exhibit "D".

6. Pacific Gas and Electric Company shall file with the Railroad Commission monthly reports, such as are required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority herein granted will become effective twenty days after the date hereof.

8. The consideration which the Pacific Gas and Electric Company has agreed to pay for the stock and properties referred to herein shall not be urged before this Commission as a measure of the value of said properties for any purpose other than the transfer herein authorized.

Dated at San Francisco, California, this thirtieth day of June, 1927.

DECISION No. 18569.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF LOS ANGELES, THE CITY OF LOS ANGELES, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, THE LOS ANGELES AND SALT LAKE RAILROAD COMPANY, THE PACIFIC ELECTRIC RAILWAY COMPANY AND THE LOS ANGELES RAILWAY CORPORATION FOR A JUST AND EQUITABLE APPORTIONMENT OF THE COST OF THE CONSTRUCTION OF SIX CERTAIN VIADUCTS ACROSS THE LOS ANGELES RIVER, IN THE SAID CITY OF LOS ANGELES, AT MACY, ALISO, FIRST, FOURTH, SEVENTH AND NINTH STREETS.

Application No. 9671.

Decided July 2, 1927.

GRADE CROSSING—TO SEPARATE—VIADUCT—TO CONSTRUCT.—Plans and specifications of city of Los Angeles for construction of First street viaduct over the Los Angeles river and tracks of the Los Angeles and Salt Lake Railroad, on the east bank, and The Atchison, Topeka and Santa Fe Railway Company, on the west bank, approved. Rerouting of lines of Los Angeles Railway during construction authorized. The principals are directed to proceed with the construction of the viaduct under an agreement whereby one of them will perform the work, and the cost will be apportioned among all principals at an agreed ratio.

RAILROAD CROSSING—TEMPORARY AUTHORIZATION—IMPAIRED CLEARANCES.—The Atchison, Topeka and Santa Fe Railway Company authorized to maintain its passenger tracks under the new viaduct at impaired clearances, under specified safeguards, pending further order of the Commission.

Edward T. Bishop, County Counsel, by *Roy Dowds*, Deputy County Counsel, for the County of Los Angeles.

Jess E. Stephens, City Attorney, by *Milton Bryan* and *J. L. Ronnow*, Deputy City Attorneys, for City of Los Angeles.

E. W. Camp, for The Atchison, Topeka and Santa Fe Railway Company.

A. S. Halsted, for Los Angeles and Salt Lake Railroad Company.

S. M. Haskins, for the Los Angeles Railway Corporation.

Frank Karr, for Pacific Electric Railway Company.

SEAVEY, Commissioner.

FIFTH PRELIMINARY ORDER.

Hearing on the above entitled proceeding, with respect to the viaduct to be constructed at First street, was held in Los Angeles on June 29, 1927, at which time the matter was submitted with respect to this viaduct. Evidence was introduced as to the type of structure and as to the apportionment of the cost thereof.

Detailed plans of the First street viaduct have been filed in this proceeding as city of Los Angeles' Exhibit No. 18, sheets 1 to 34, inclusive. It appears that all applicants agree upon these plans as satisfactory and the engineering department of the Commission has recommended that they be approved.

The city of Los Angeles has requested that the plans be approved and that the city be authorized to proceed with the construction of the viaduct, said authorization to be without prejudice as to any findings to be made later by the Commission, with respect to apportionment of cost, permanent clearances on the Santa Fe passenger tracks or any matters which may be subject to dispute between the parties. The interested parties have signified their willingness to have such an order issued and it appears to the Commission that the request is reasonable and should be granted.

Considerable testimony was introduced with respect to the rerouting of Los Angeles Railway Corporation cars during the construction of the viaduct and the preponderance of evidence is in favor of rerouting via Macy street, as proposed by the company.

It further appears from the testimony offered in this proceeding that the location, elevation and arrangement of Santa Fe tracks south of the viaduct can not be definitely settled at this time and that company is anxious to retain its passenger tracks with impaired clearance under the viaduct until the ultimate arrangement of their tracks is decided upon. It appears under the circumstances that this request should also be granted.

Now therefore, as a fifth preliminary order in this proceeding, and specifically reserving for further consideration in any order or orders

the subject of final clearances with respect to the Santa Fe tracks with said viaduct, the apportionment of cost of this viaduct, both as to construction and maintenance, and all matters relative to the construction, maintenance and apportionment of cost of the viaducts yet remaining to be constructed in this proceeding;

It is hereby ordered, that the plans and specifications shown on city of Los Angeles' Exhibits No. 18 (sheets 1 to 34, inclusive) and No. 18a, be and they are hereby approved; and

It is hereby further ordered, that during the construction of said viaduct the Los Angeles Railway Corporation may route its First street line ("P" cars) via Macy street and its Spring street line ("L" cars) via First to First and Vignes street and install such other service and connections as proposed and shown on Los Angeles Railway Corporation's Exhibit No. 11.

It is hereby further ordered, that The Atchison, Topeka and Santa Fe Railway Company be and it is hereby authorized to maintain its passenger tracks under the new First street viaduct with present clearances until otherwise ordered by this Commission; *provided, however*, that warning signs of said impaired clearances be posted on each side of said viaduct; *and provided, further*, that said signs be made visible at night by proper electric lights.

It is hereby further ordered, that the county of Los Angeles, the city of Los Angeles, The Atchison, Topeka and Santa Fe Railway Company, the Los Angeles and Salt Lake Railroad Company and the Los Angeles Railway Corporation be and they are hereby directed to proceed with the construction of the First street viaduct, the plans of which are hereinbefore approved; and

It is hereby further ordered, that the interested parties may agree that one of them shall acquire the necessary lands, settle claims for damages and make contracts for the construction of a viaduct herein approved. Should they fail to agree in this regard, such disagreement shall be reported to the Commission, whereupon an appropriate order will be entered.

The effective date of this order shall be three days from and after the date hereof.

Dated at San Francisco, California, this second day of July, 1927.

DECISION No. 18576.

IN THE MATTER OF THE APPLICATION OF HILLS WATER COMPANY,
A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY.

Application No. 13841.

IN THE MATTER OF THE APPLICATION OF HILLS WATER COMPANY,
A CORPORATION, FOR AUTHORITY TO ISSUE THIRTY-SIX THOU-
SAND DOLLARS PAR VALUE OF ITS COMMON STOCK.

Application No. 13842.

Decided July 8, 1927.

CERTIFICATE—WATER UTILITY—STOCK—TO ISSUE—CERTIFICATE GRANTED.—Applicant authorized to issue \$36,000 of common stock in payment for its properties.

Robert M. Searls, for Applicant.

BY THE COMMISSION.

OPINION.

In Application No. 13841, Hills Water Company, a corporation, asks the Commission to issue a certificate declaring that present and future public convenience and necessity require and will require it to operate a public utility water business. In Application No. 13842, the corporation asks permission to issue \$36,000 of its common capital stock in payment for certain water properties.

A public hearing on the two matters was held before Examiner Fankhauser on June 24, 1927, at which time they were consolidated for the purpose of receiving evidence and for decision. No one appeared in protest to the granting of the applications.

The record shows that the territory in which applicant proposes to operate comprises some 450 acres of land located in San Mateo County northerly of the northerly boundary of the city of Hillsborough and westerly of the westerly boundary of the city of Burlingame. It appears that the tract is owned by Panama Realty Company which has subdivided forty acres and is now engaged in subdividing eighty additional acres. The realty company has constructed and acquired a water system to serve this region when it is developed.

The water system includes an agreement with Spring Valley Water Company for the delivery by that company of not to exceed 500,000 gallons of water daily from its Pilarcitos flume, a right of way and a supply line from the flume to a concrete reservoir, a reservoir of 180,000 gallons capacity and distributing mains from the reservoir throughout the tract. The cost of the system, which was installed within the last year, is shown in applicant's Exhibit No. 3, as follows:

Reinforced concrete reservoir-----	\$8,273 97
Supply line from Pilarcitos flume to reservoir, about 4218 feet of riveted steel pipe -----	8,303 73
Distribution mains—	
1095 feet 10" steel pipe	
506 feet 8" steel pipe	
3516 feet 6" cast iron pipe	
5891 feet 4" cast iron pipe	
2557 feet 3" galvanized pipe	
2012 feet 3" screw pipe	
1291 feet 2" galvanized pipe	
878 feet 2" screw pipe	
complete with fittings, etc.-----	21,835 72
Total -----	\$38,413 42

Panama Realty Company is engaged in the real estate business, and does not, it seems, desire to enter into the public utility water business. Accordingly it has deeded the water system it has constructed or acquired to H. B. Fisher, who, in turn proposes to transfer it to the applicant corporation which he has caused to be organized for the purpose of receiving and operating it. The proposed consideration is \$36,000 of the capital stock of the corporation.

The applications set forth that there is no other utility from which service for this tract can be obtained. It therefore is apparent that as this district is settled and develops, public convenience and necessity will require the operation of the water system applicant proposes to acquire. Accordingly an order granting the two applications, subject to certain conditions, will be entered.

ORDER.

Hills Water Company, a corporation, having applied to the Railroad Commission for a certificate of public convenience and necessity and for permission to issue stock, a public hearing having been held, and the Railroad Commission being of the opinion that the applications should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income,

The Railroad Commission hereby declares that present and future public convenience and necessity require and will require the acquisition and operation by Hills Water Company, a corporation, of a public utility water system on the lands referred to in the foregoing opinion and more particularly set forth in these applications and shown on the map attached to Application No. 13841 as Exhibit "B."

It is hereby ordered, that Hills Water Company, a corporation, be and it hereby is authorized to issue, on or before December 31, 1927, \$36,000 of its common capital stock for the purpose of paying in full for the water system and properties referred to in the foregoing opinion and of providing working capital.

It is hereby further ordered, that the authority herein granted is subject to the following conditions:

1. The amount of stock herein authorized to be transferred shall not be urged before this Commission or other public body or court as representing the value of the water system for the purpose of fixing rates or for any purpose other than this transfer.
2. Applicant shall keep such record of the issue and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-first day of each month, a verified report, as required by the Railroad Commission's General

Order No. 24, which order, in so far as applicable, is made a part of this order.

3. Within thirty days after acquisition of the properties Hills Water Company shall file a certified copy of the deed under which it acquires and holds title thereto.

4. The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this eighth day of July, 1927.

DECISION No. 18580.

IN THE MATTER OF THE APPLICATION OF CLEAR LAKE WATER COMPANY, A CORPORATION, FOR AUTHORITY TO CREATE A BONDED INDEBTEDNESS OF FIVE HUNDRED THOUSAND DOLLARS, TO SECURE THE SAME BY MORTGAGE OR DEED OF TRUST, TO ISSUE AND SELL ITS CAPITAL STOCK OF THE PAR VALUE OF ONE MILLION DOLLARS AND TO ISSUE AND SELL ITS FIRST MORTGAGE GOLD BONDS OF THE PAR VALUE OF FIVE HUNDRED THOUSAND DOLLARS TO ACQUIRE CERTAIN PROPERTIES.

Application No. 13763.

Decided July 8, 1927.

TRANSFER—WATER UTILITY—STOCK AND BONDS—To ISSUE.—Applicant authorized to acquire properties of Yolo Water and Power Company and Yolo County Consolidated Water Company, and to issue not exceeding \$750,000 of common stock, and not exceeding \$350,000 of 6 per cent first mortgage bonds in payment therefor.

Herman Weinberger, for Applicant.

White, Miller, Needham and Harber, by *Irving Needham*, for the trustee, California Trust and Savings Bank.

BY THE COMMISSION.

OPINION.

In this proceeding the Railroad Commission is asked to make an order authorizing the Clear Lake Water Company to acquire the properties of the Yolo Water and Power Company, set forth in the offer by Robert Gill, filed as Exhibit "C," and the properties of the Yolo County Consolidated Water Company; and authorizing Clear Lake Water Company to execute a mortgage or deed of trust to secure an authorized bond issue of \$500,000 and to issue (application amended at hearing) \$350,000 of said bonds and \$1,000,000 of common stock to acquire the properties referred to in this application. Both Robert Gill and Yolo County Consolidated Water Company have joined in this application.

This application involves the transfer of the properties formerly owned by Yolo Water and Power Company and the properties now owned by Yolo County Consolidated Water Company to the Clear Lake Water Company. The Yolo Water and Power Company was organized on or about December 11, 1911. Its report for the year ending December 31, 1926, shows \$10,000,000 of stock and \$9,900,000 of bonds outstanding.

While \$9,900,000 of bonds are reported as outstanding, only \$2,392,000 of the bonds have been actually issued. Pursuant to the authority granted by Decision No. 1639, dated July 1, 1914, in Application No. 1133, Yolo County Consolidated Water Company leased its properties to the Yolo Water and Power Company. The testimony shows that the Yolo Water and Power Company owns all of the outstanding stock of Yolo County Consolidated Water Company, except shares necessary to qualify directors, and that the properties of the two companies have been operated as a unit.

Yolo Water and Power Company defaulted in the payment of bond interest, with the result that the bondholders instituted foreclosure proceedings. On March 25, 1927, M. S. Sayre, judge of the superior court of the State of California, in and for the county of Lake, entered a decree of foreclosure. The foreclosure proceeding was instituted by the California Trust and Savings Bank, trustee under the mortgage executed by the Yolo Water and Power Company. In its decree the court finds that the Yolo Water and Power Company was indebted to the plaintiff as trustee in the sum of \$2,392,000 representing the principal of the bonds of the Yolo Water and Power Company, and \$740,-025 of interest thereon, together with the sum of \$11,000 for attorney's fees and trustee's compensation of California Trust and Savings Bank, and the sum of \$438.60 of costs and disbursements by said trustee lawfully incurred in the foreclosure action and in the execution of the trust by said California Trust and Savings Bank. The court in its decree further finds that there is due from Yolo Water and Power Company to plaintiff, the sum of \$17,500 as trustee's compensation for the intervener, the Oakland Bank, for its attorneys, and for its expenditures up to and including the date of the decree. The court further finds that the foregoing sums, aggregating \$3,160,963.60, is a valid and subsisting lien upon all the properties, real and personal, of Yolo Water and Power Company. The court ordered the properties of the company to be sold, and appointed Roy W. Blair as commissioner to make the sale. It further ordered that the sale of the properties be made without any right of redemption. The report of Roy W. Blair, filed with the court, shows that the properties were sold on May 14, 1927, to Robert Gill. It is of record that he represented the holders of bonds of Yolo Water and Power Company, who deposited the same for the purpose of acquiring the properties. It appears that the amount of bonds deposited and applied to the purchase price of the properties was \$2,221,000 leaving undeposited \$171,000. The sale of the properties was confirmed by Judge Sayre on May 19, 1927. The properties sold are described in detail in Exhibit No. 4.

The territory served by the distribution system of the water system referred to in this proceeding, is located in the immediate vicinity of Woodland. The water system obtains its water from Clear Lake, which is about 60 miles northwest of the Capay diverting dam referred to below. The transmission and distribution system consists of about 230 miles of canals, of which 190 miles were owned by the two companies. The system has two diverting dams; one at Capay, located on Cache Creek, about 20 miles west of Woodland; and one located near Woodland, known as the Moore's dam. The Capay dam, according to the record, is of the concrete gravity type, some 500 feet long, and was installed in 1912 and 1913. The water which is released from Clear Lake, is diverted by the Capay dam into two of the main canals of the system. The diversion to the south of Cache Creek is carried by the Winters canal and serves the area located south of the creek and west of Woodland, the towns embraced being Esparto, Capay, Madison, Winters and Davis. The Adams system irrigates all lands north of Cache Creek as far east as the town of Yolo and also supplies the Moore system and serves the territory in and around Woodland. The water from the Adams system is released from Cache Creek at a point about seven miles west of Woodland and is diverted into the Moore system by the Moore diverting dam, a wooden structure installed in 1902. Of the 75,000 acres of land which may be irrigated from the system, there are at this time from 25,000 to 30,000 acres under irrigation.

In Exhibit No. 2, prepared by F. Daugherty, the valuation of the properties as of April 30, 1927, was submitted as follows:

Historical cost	\$1,482,714 00
Historical cost depreciated.....	1,158,849 00
Reproduction value	2,222,491 00
Reproduction value depreciated.....	1,734,022 00

The valuations submitted by F. Daugherty are based upon a valuation of the properties prepared by Walter H. Davis, a civil and hydraulic engineer, who was formerly chief engineer for the Yolo Water and Power Company. The detailed valuation prepared by Walter H. Davis was introduced in this proceeding as Exhibit No. 1, and is as of October 1, 1925. In preparing Exhibit No. 2, F. Daugherty deducted from the valuation prepared by Walter H. Davis the property retired subsequent to October 1, 1925, and added to such appraisal the actual cost of additions and betterments.

Exhibit No. 2 also contains a statement of the gross revenue, the operating expenses and gross corporate income for the five years ending December 31, 1926, and an estimate for the year 1927.

The gross revenues for the period mentioned are as follows:

Year	Total gross	Operating expenses (inclusive of depreciation)	Gross corporate income
1922 -----	\$114,153 37	\$44,021 01	\$70,132 36
1923 -----	76,850 64	44,294 08	32,556 56
1924 -----	15,857 21	30,745 61	14,888 40
1925 -----	88,784 97	38,353 64	50,431 33
1926 -----	103,122 73	42,143 69	60,979 04
1927 (Estimated) -----	115,000 00	42,100 00	72,900 00

¹ Loss.

The operating expenses, as reported in Exhibit No. 2 have been adjusted and reflect what F. Daugherty regards as a reasonable operating expense. The gross corporate income represents the amount available to pay interest, amortize bond discount and expense, pay dividends and for surplus.

It will be noted that the company's earnings for the period mentioned have fluctuated materially. This fluctuation is primarily due to an insufficient water supply and not a lack of demand.

Applicant Clear Lake Water Company has submitted a copy of its proposed mortgage or deed of trust. In it the company covenants that it will not declare or pay any dividend upon its capital stock unless at the time of the declaration and/or payment of any such dividend there shall be deposited with the trustee a sum of money (in addition to any moneys received by the trustee pursuant to any other provisions of the indenture) sufficient to provide for the payment of the interest to accrue upon the bonds issued and outstanding for a period of three years after the declaration and/or payment of any such dividend. The company further covenants that it will not declare and/or pay any dividends upon its capital stock except out of earnings derived from the operation of its properties remaining after the deduction of operating expenses (including maintenance and repairs, taxes, rentals and insurance) depreciation and amortization of debt discount and expense, all interest charges, and the deposit of cash hereinbefore mentioned. The mortgage further provides that any moneys deposited with the trustee pursuant to the provisions just stated may, so long as the company is not in default, be used for the payment of interest thereafter becoming due upon the bonds issued and outstanding, but only upon the order of the company directing the trustee to use all or a part of said moneys for the payment of such interest. Any interest allowed by the trustee on money deposited by the company pursuant to the aforementioned provisions shall, so long as the company is not in default, be paid to the treasurer of the company or his order. We believe that all earnings of the company, over and above interest and other fixed charges should, until such time as the said interest fund is accumulated, be paid

into said fund unless the Commission permits the company to use said earnings for additions and betterments.

The company's proposed mortgage or deed of trust secures the payment of an authorized bond issue of \$500,000 bearing interest at the rate of 6 per cent per annum and maturing on July 15, 1952. In this proceeding, as stated, the company asks permission to issue \$350,000 of its bonds to pay in part for the properties which it intends to acquire. The proposed mortgage or deed of trust provides that the remainder of the bonds may from time to time be certified and issued in amounts not exceeding 60 per cent of the actual and reasonable expenditures made by the company on or after August 1, 1927, for extensions and additions to its plants, properties, system and equipment as the same existed on August 1, 1927, provided that none of such bonds shall be certified unless and until the net earnings of the company for a period of twelve consecutive calendar months ending not more than sixty days prior to the date of filing with the trustee an application for the certification of bonds shall have been equal to at least two times the total annual interest charge of the company.

The proposed mortgage obligates the company to deposit with the trustee on July 15, 1929, and on the fifteenth day of July of each year thereafter for the purpose of a sinking fund, an amount equal to $1\frac{1}{2}$ per cent of the total amount of bonds it has issued and outstanding, but in no event less than \$5,000. This payment may be made either in cash or in bonds of the company, and if in bonds, they shall be accepted by the trustee at their face value. The company reserves the right to redeem on July 15, 1929, or on any interest payment date prior to maturity, its bonds at 101 and accrued interest.

We have considered the evidence submitted in this proceeding and are of the opinion that the Clear Lake Water Company should be permitted to issue not exceeding \$750,000 of its common capital stock, and not exceeding \$350,000 of its 6 per cent 25-year bonds to acquire the properties which Robert Gill has agreed to transfer to it.

ORDER.

Robert Gill and Yolo County Consolidated Water Company, having asked permission to sell, transfer and convey their properties, referred to in this proceeding, to Clear Lake Water Company, and said company having asked permission to acquire said properties and issue \$1,000,000 of common stock and \$300,000 of bonds, to execute a mortgage and/or deed of trust, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that said company should be permitted to issue not exceeding \$750,000 of common stock and \$350,000 of bonds and that the money, property or labor to be procured or paid for by such issue is reasonably

required by applicant, Clear Lake Water Company, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted as herein provided; therefore,

It is hereby ordered, as follows:

1. Clear Lake Water Company may execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed in this proceeding on July 1, 1927, provided that the authority herein granted to execute a mortgage or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject, and provided further that there be incorporated in said mortgage or deed of trust a description of the properties on which it will be a lien.

2. Clear Lake Water Company may issue not exceeding \$750,000 of common capital stock and not exceeding \$350,000 of 6 per cent first mortgage bonds due July 15, 1952, and deliver said stock and bonds to Robert Gill in full payment for the properties, and for the purposes referred to in his offer filed as Exhibit C. In lieu of delivering said bonds to Robert Gill, Clear Lake Water Company may sell said bonds on or before October 1, 1927, at not less than 93½ per cent of their face value and accrued interest, and deliver said proceeds, together with the \$750,000 of common stock to Robert Gill for the aforesaid purposes.

3. The Clear Lake Water Company shall file within thirty days after its execution, two certified copies of the mortgage or deed of trust which it is hereby authorized to execute.

4. This application in so far as it involves the issue of \$250,000 of stock be and the same is hereby dismissed without prejudice.

5. Clear Lake Water Company shall deposit with the trustee under its mortgage or deed of trust for the purposes stated in section seven, article II (interest fund) or for a sinking fund, article III of said mortgage or deed of trust, all earnings available for dividends, said deposits to be made until such time as the fund provided in section seven, article II, is established, unless the Commission permits said company to use all or part of said earnings for additions and betterments. If the company finds it necessary to withdraw any of the moneys deposited with the trustee pursuant to section seven of Article II, dividend payments shall cease until the money so withdrawn is returned.

6. The authority herein granted will become effective when Clear Lake Water Company has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$350, it shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of

the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this eighth day of July, 1927.

DECISION No. 18585.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA WHARF AND WAREHOUSE COMPANY, A CORPORATION; F. L. NIXON, DOING BUSINESS UNDER THE NAME OF DENAIR WAREHOUSE; ROY DAY AND R. L. FRYE, A COPARTNERSHIP, DOING BUSINESS UNDER THE NAME OF FARMERS WAREHOUSE AND SUPPLY COMPANY; GRANGE WAREHOUSE AND STORAGE COMPANY, A CORPORATION; J. RODBERG, DOING BUSINESS UNDER THE NAME OF HILMAR WAREHOUSE COMPANY; A. A. GALT, M. A. GALT, AND S. C. GALT, A COPARTNERSHIP, DOING BUSINESS UNDER THE NAME OF HUGHSON WAREHOUSE COMPANY; J. RODBERG, DOING BUSINESS UNDER THE NAME OF LIVINGSTON WAREHOUSE; EDWARD J. LYG, DOING BUSINESS UNDER THE NAME OF EDWARD J. LYG WAREHOUSE; MANTECA WAREHOUSE, INC., A CORPORATION; H. K. HULS, DOING BUSINESS UNDER THE NAME OF MERCED ELEVATOR COMPANY; NORTHERN CALIFORNIA WAREHOUSE COMPANY, A CORPORATION; SIMON NEWMAN COMPANY, A CORPORATION; STANISLAUS COUNTY FARMERS UNION, INC., A CORPORATION; C. B. TAWNEY; CHARLES TORNELL, EVAR TORNELL, G. S. TORNELL, CARL TORNELL, PETER LARSON, COPARTNERS, DOING BUSINESS UNDER THE NAME OF TORNELL-LARSON GRAIN COMPANY; T. E. WILSON; THROUGH L. A. BAILEY, THEIR DULY AUTHORIZED AGENT, FOR AN ORDER ESTABLISHING JUST, REASONABLE AND UNIFORM RATES, RULES AND REGULATIONS.

Application No. 13711.

Decided July 8, 1927.

RATES—WAREHOUSE UTILITY—GRAIN STORAGE.—Increases ranging from 5 cents to 25 cents per ton per month authorized.

L. A. Bailey and Douglas Brookman, for Applicant.

Edson Able, for California Farm Bureau Federation, Stanislaus County Farm Bureau Federation, San Joaquin County Farm Bureau Federation and Merced County Farm Bureau Federation.

BY THE COMMISSION.

OPINION.

This is an application by L. A. Bailey as agent for California Wharf and Warehouse Company, a corporation, operating public warehouses at Dickinson, Le Grand, Marguerite, Merced, Planada and Tuttle; F. L. Nixon operating a warehouse at Denair under the fictitious name of Denair Warehouse; Roy Day and R. L. Frye, copartners operating under the fictitious name of the Farmers Warehouse and Supply Company, with warehouses at Denair, Hatch, Keyes, Livingston and Turlock; Grange Warehouse and Storage Company, a corporation, operating warehouses at Adela, Arnold, Athlone, Ceres, Claribel, Claus,

Cometa, Denair, Empire, Farmington, Gilman, Hatch, Hickman, Merced, Modesto, Montpelier, Oakdale, Paulsell, Riverbank, Ryer, Salida, Turlock, Valley Home and Waterford; J. Rodberg, an individual operating a warehouse at Hilmar under the fictitious name of the Hilmar Warehouse Company and at Livingston under the fictitious name of Livingston Warehouse; A. A. Galt, M. A. Galt and S. C. Galt, a copartnership operating a warehouse at Hughson under the fictitious name of Hughson Warehouse Company; Edward J. Lyng, an individual operating a warehouse at Modesto under the fictitious name of the Edward J. Lyng Warehouse; Manteca Warehouse, Incorporated, a corporation operating a warehouse at Manteca; H. K. Huls, an individual operating a warehouse at Merced under the fictitious name of the Merced Elevator Company; Northern California Warehouse Company, a corporation operating a warehouse at Modesto; Simon Newman Company, a corporation, operating warehouses at Crows Landing, Ingomar, Linora, Newman, Patterson, Volta and Westley; Stanislaus County Farmers' Union, Incorporated, a corporation, operating a warehouse at Modesto; C. B. Tawney, an individual operating a warehouse at Ripon; Charles Tornell, Evar Tornell, G. S. Tornell, Carl Tornell and Peter Larson, copartners operating a warehouse at Ripon under the firm name and style of Tornell-Larson Grain Company; and T. E. Wilson, an individual operating a warehouse at Ceres, for authority to readjust rates and publish a consolidated warehouse tariff containing uniform rates, rules and regulations as set forth in Exhibit "B" attached to and made a part of the application. The increase in the charges for storing the principal grains will be from 5 cents to 25 cents per month.

Public hearings were held before Examiner Geary at Modesto June 9 and Newman June 10, 1927, and the application having been duly submitted and briefs filed, is now ready for our opinion and order.

At the hearing at Modesto R. L. Frye, representing the copartnership of Roy Day and R. L. Frye, doing business under the name of the Farmers Warehouse and Supply Company, with warehouses located at Denair, Hatch, Keyes, Livingston and Turlock, requested that the copartnership be eliminated as an applicant in the proceeding.

The copartnership consisting of Charles Tornell, Evar Tornell, G. S. Tornell, Carl Tornell and Peter Larson, operating under the fictitious name of the Tornell-Larson Grain Company, with a warehouse at Ripon, and C. B. Tawney, an individual, with a warehouse at the same point, have never filed warehouse tariffs or annual reports with this Commission; and H. K. Huls, an individual doing business under the fictitious name of the Merced Elevator Company, with a warehouse at Merced, while having tariffs on file with this Commission and having

filed an annual report for the year 1926, failed to render any sustaining proof that the rates should be adjusted.

The four applicants named in the two preceding paragraphs will be eliminated from further consideration.

The remaining applicants operate some 50 warehouses located on the east side of the San Joaquin Valley, adjacent to each other in the territory Athlone and north thereof to Farmington and Manteca and on the west side of the valley at stations Volta to Westley on the Southern Pacific, and also at a number of points on the east side of the valley on the rails of the Atchison, Topeka and Santa Fe, and at a few points in the interior not on the lines of any rail carrier.

The present tariff does not segregate the storage charges in the same manner as the proposed tariff, they now being assessed in most instances under the classification of season storage, which includes weighing in, piling in the warehouse, and storing, but not including delivery from the warehouse for which a charge of 25 cents per ton is assessed. Under the proposed tariff the charges are separate and distinct for each service, viz, receiving, piling, weighing, storing and delivering. The storage charges in some instances are for different periods than now in effect. As illustrative, under the present tariffs beans are assessed a flat charge per ton per season ending May 31st or any part thereof, while in the proposed tariff the storage charge for beans is broken into different periods—30, 60 and 90 days, and for an entire season ending May 31st or any part thereof.

The tariffs now in effect do not have standard rules, and the charges differ at the different warehouses. It is applicants' intention by this proceeding to establish uniform rates, rules and regulations at all of the San Joaquin Valley warehouses operated by the members of the California Warehouse Bureau. The rates sought are practically those in effect at Stockton, except that on grain the proposed rates are ten cents per ton less and on potatoes one-half cent per sack less for each month's storage after the first month than those prevailing at the large warehouses at Stockton.

There was testimony to the effect that because of the small volume of business handled at the country warehouses, rates should actually be much higher than those prevailing at the large terminals, but the rates here proposed are materially controlled by the Stockton competition.

Practically all of this warehouse business is conducted in conjunction with some form of nonutility operations, such as general merchandising and the buying, selling, cleaning and fumigating of the commodities stored. It is apparent from this record that many of the applicants are able to continue their public utility operations solely by reason of the revenue received from nonutility activities.

The testimony shows that the acreage in northern San Joaquin Valley is gradually being diverted from the production of grain, beans, hay and straw to orchard, vegetable and dairy farms, and there is a steady decline in the commodities these applicants depend upon for the revenues necessary in the conduct of their warehouse business.

A witness for applicants presented exhibits giving the financial results June 1, 1925, to May 31, 1926, showing that two of the applicants operated at a profit during this twelve months' period. The California Wharf and Warehouse Company, with a claimed investment of \$33,500, had a profit of \$856.71, and the Northern California Warehouse, operating leased property, had a profit of \$212.18. The other companies suffered a total operating loss of \$18,175.81 as follows: Denair Warehouse, \$267.25; Grange Warehouse and Storage Company, \$11,829.58; Hilmar Warehouse, \$348.33; Hughson Warehouse Company, \$295.71; Edward J. Lyng Warehouse, \$2,147.39; Manteca Warehouse, \$1,069.68; Simon Newman Company, \$940.18; Stanislaus County Farmers' Union, \$953.31; T. E. Wilson, \$324.38. Similar reports were rendered for the ten months' period June 1, 1926, to March 31, 1927, showing very much the same conditions.

The annual reports to the Commission do not make segregations as between the utility and the nonutility transactions. The special reports entered in this proceeding do separate the utility revenue from other revenues, and the expenses are directly allocated to warehouses wherever possible, arbitrary amounts being set up where the expenses are divided between the utility and nonutility business. The arbitrary amounts were studied by representatives from our finance department, and appear to be proper.

Notices of the hearings conducted at Modesto and Newman were posted in each warehouse of each of the applicants ten days prior to the hearings, but only one witness testified in opposition to the granting of the rates sought.

Upon consideration of all the exhibits, testimony and briefs we are of the opinion and find that the application has been justified and that the proposed rates should be authorized.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of facts and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that applicants, California Wharf and Warehouse Company, a corporation; F. L. Nixon, an individual; Grange Warehouse and Storage Company, a corporation; J. Rodberg, an individual A. A. Galt, M. A. Galt and S. C. Galt, a copartnership; Edward J. Lyng, an individual; Manteca Warehouse, a corporation; Northern

California Warehouse Company, a corporation; Simon Newman Company, a corporation; Stanislaus County Farmers' Union, a corporation; and T. E. Wilson, an individual, be and they are hereby authorized to establish on five days' notice to the Commission and to the public, the rates, rules and regulations shown in California Warehouse Tariff Bureau Tariff designated as Exhibit "B," attached to and made a part of the application.

It is hereby further ordered, that in all other respects the application be and it is hereby dismissed.

Dated at San Francisco, California, this eighth day of July, 1927.

DECISION No. 18587.

PACIFIC STATES BUTTER, EGG, CHEESE AND POULTRY
ASSOCIATION

vs.

SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, THE WESTERN PACIFIC RAILROAD COMPANY, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, MODESTO AND EMPIRE TRACTION COMPANY, NORTHWESTERN PACIFIC RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, PETALUMA AND SANTA ROSA RAILROAD, SACRAMENTO NORTHERN RAILWAY.

Case No. 2230.

Decided July 8, 1927.

RATES—RAILROAD—REFRIGERATION—DAIRY AND POULTRY PRODUCTS—COST-OF-ICE BASIS.—Finding that the practice of carriers in denying to California shippers of butter, eggs, cheese and dressed poultry, the cost-of-ice basis of refrigeration charges, the Commission orders defendant carriers to establish rates for such service on such a basis. Reparation is denied complainants.

B. F. McKibben and McCutchen, Olney, Mannon and Greene, by *Allan P. Matthew and John O. Moran*, for Complainant Simon Levi Company, intervener.

Seth Mann, for San Francisco Chamber of Commerce, intervener in behalf of Complainant.

Frank M. Hill, for the Fresno Traffic Association, intervener in behalf of Complainant.

J. E. Lyons, for Southern Pacific Company, Defendant.

Elmer Westlake and Berne Levy, for The Atchison, Topeka and Santa Fe Railway Company and Modesto and Empire Traction Company, Defendants.

A. S. Halsted and E. E. Bennett, for Los Angeles and Salt Lake Railroad Company, Defendant.

Stanley Moore and Ralph Palmer, for Northwestern Pacific Railroad Company, Defendant.

BY THE COMMISSION.

OPINION.

Complainant is a voluntary nonprofit corporation organized under the laws of the State of California, with its principal place of business at San Francisco. Its members consist of producers, manufacturers and

distributors of dairy and poultry products located in the states of California, Washington, Oregon, Idaho, Montana, Utah and Nevada.

By complaint seasonably filed it is alleged that the charges named in section 2 of Perishable Protective Tariff No. 2, C. R. C. No. 1, of R. C. Dearborn, agent, and the charges named in and by Rule 240 of section 2 of the same tariff applicable between all points within the State of California for the refrigeration of butter, eggs, cheese and dressed poultry in carloads, have in the past, now are, and for the future will be unjust, unreasonable and excessive to the extent they have exceeded, exceed or may exceed the refrigeration charges that would accrue at the charges published and provided in section 4 of said tariff.

Reparation and just and reasonable charges for the future are sought.

The San Francisco Chamber of Commerce, Fresno Traffic Association, and Simon Levi Company intervened in behalf of complainant. Complainant and interveners will hereafter be collectively referred to as complainants.

Since the filing of the complaint Perishable Protective Tariff No. 2 has been superseded by Tariff No. 3, C. R. C. No. 2, and Rule 240 in the former issue is now Rule 241. Except for these differences the items and the sections of the tariff here involved were reissued without change. Reference will be made hereafter to Tariff No. 3 and the rules, items and charges contained therein.

Public hearings were held before Examiner Geary, and the case having been duly submitted and briefs filed, is now ready for our opinion and order.

The principal producing areas in California of eggs and poultry are situated in Marin and Sonoma counties, the San Joaquin and Sacramento valleys, and southern California in the territory immediately adjacent to Los Angeles and San Diego. Packing plants and concentrating centers are maintained at Petaluma, Santa Rosa, Sacramento, Stockton, Merced, Fresno and San Diego. Dairy products are produced generally throughout the state, but principally in Humboldt, Mendocino and Marin counties, the San Joaquin, Sacramento and Imperial valleys and to some extent in the territory contiguous to Los Angeles.

San Francisco and Los Angeles are the primary consuming markets and distributing centers of the state. During the year 1925 San Francisco received 28,744,911 pounds of butter, 746,965 cases of eggs, 11,855,431 pounds of cheese and 5,614,604 pounds of dressed poultry; and Los Angeles 39,901,629 pounds of butter, 574,884 cases of eggs, 11,899,558 pounds of cheese and 4,800,802 pounds of dressed poultry. Of the San Francisco receipts 75.1 per cent of the butter, 91.9 per cent of the eggs, 19.5 per cent of the cheese and 48.2 per cent of the dressed poultry originated at points in California. The intrastate shipments to Los Angeles represented 58.7 per cent, 79.4 per cent, 18.3 per cent and 12.9

per cent respectively, of the total butter, eggs, cheese and dressed poultry receipts. The balance of the tonnage originated at interstate points, principally Oregon, Washington and Idaho, with comparatively small shipments from Nevada and Arizona. During 1925 San Francisco received from these five states by rail 2,891,715 pounds of butter, 54,739 cases of eggs, 5,992,173 pounds of cheese and 3,835,772 pounds of dressed poultry, and Los Angeles 11,480,693 pounds of butter, 92,100 cases of eggs, 6,487,212 pounds of cheese and 941,856 pounds of dressed poultry.

Practically all dairy and poultry products moving between points in California are transported in refrigerator cars either with or without refrigeration, and the movement is not seasonal but is fairly constant throughout the year. Shipments are usually precooled at the concentrating centers before being loaded into the car and the amount of refrigeration, if any required, varies according to the season of the year, the length of haul and the particular territory traversed. In the cooler months, with the exception of dressed poultry, shipments of these commodities may be safely transported without any protection other than an insulated car. During the warmer months, for the longer hauls the record indicates the maximum amount of refrigeration necessary for the safe transportation of butter, eggs and cheese will require approximately 6000 pounds of ice at the point of origin or first icing station and about 3000 pounds of ice en route, and for the shorter hauls less initial icing and reicing is required and very often no reicing at all is needed. Dressed poultry requires a somewhat greater degree of refrigeration.

For the purpose of assessing charges when refrigeration is required, defendants have divided California into geographical groups, designated as groups A to G inclusive, as to origin, and 1 to 7 inclusive as to destination. Roughly speaking, groups 1 and A embrace the territory east of and including Daggett and Banning; groups 2 and B, west of Daggett and Banning and south of Tehachapi and Santa Barbara; groups 3 and C, the San Joaquin Valley south of Stockton and Lathrop; groups 4 and D, the Coast Division of the Southern Pacific north of Santa Barbara and south of San Jose; groups 5 and E, the territory north of San Jose, west of Stockton and Sacramento and south of Sherwood and Willits; groups 6 and F, all territory north and east of Sacramento, Sherwood and Willits except points on the Fernley branch of the Southern Pacific, Stacey to Westwood inclusive, which latter territory comprises groups 7 and G.

Shipments of the commodities in controversy requiring initial icing and reicing en route are assessed "Stated Refrigeration Charges" as provided in Table No. 9, item 1974, section 2, page 151, of the tariff in specific amounts of from \$30 to \$55 per car according to the length

of the haul and the territory traversed. This table on page 151 also provides in item No. 1970 charges for deciduous fruits, berries and tropical fruits, item No. 1972 citrus fruits, and item No. 1976 melons. Item No. 1974 provides the charges for vegetables; also perishable freight N. O. I. B. N. (not otherwise indexed by name). Butter, eggs, cheese and dressed poultry are not specifically listed but come within the term freight N. O. I. B. N., therefore the stated refrigeration or Rule 241 charges must be assessed. The term N. O. I. B. N. also includes approximately 100 other articles of perishable nature, such as beverages, candy, drugs, flowers, fish, nursery stock, etc., as set forth in item No. 1130, page 109, of the tariff. Under the stated refrigeration basis carriers assume the entire burden of providing proper and ample refrigeration and shippers may not limit the amount of ice to be used.

Shipments requiring initial icing only and forwarded under instructions "do not reice en route" are assessed the charges provided by Rule 241. Briefly stated, this rule provides that the carrier, on instructions from the shipper, will furnish an iced car or will initially ice the car at the first regular icing station at the charges provided in the tariff. The shippers, at their election, may perform the initial icing and in addition must pay a charge of \$5 per car if the journey is confined within the limits of a single origin group; \$7.50 per car if confined within the limits of two contiguous origin groups, and in all other cases 20 per cent of the stated refrigeration charge. Under the provisions of this rule the shipper may indicate the amount of ice to be used.

The charges under section 4 of the tariff, hereafter referred to as the "cost-of-ice basis," are predicated solely upon the amount of ice shippers in their discretion wish to have furnished. At all regular icing stations in California, defendants under the provisions of this section furnish the ice at a charge of \$4.50 per ton and salt at 75 cents per 100 pounds, with the exception of points in the Coachella, Imperial and Palo Verde valleys, where the charge is \$6.50 per ton. This section applies only in the absence of specific charges in section 2 of the tariff.

Stated charges and Rule 251 in section 2 of the tariff apply to butter, eggs, cheese and dressed poultry, hence the provisions of section 4 are inapplicable within California on this traffic. Section 4 charges are likewise inapplicable within the states of Oregon, Washington, Idaho, Nevada and Arizona, but throughout the rest of the United States are uniformly in effect. Thus in these six westernmost states defendants maintain for the refrigeration of dairy and poultry products the stated charge for shipments requiring initial icing, and reicing en route, and Rule 241 charges for shipments requiring initial icing only, while throughout the balance of the country shippers are accorded the section 4 basis.

The stated charge basis on a shipment of butter from San Francisco to Los Angeles, regardless of the amount of ice needed or used, is \$40 per car, and if moved under Rule 241 with 9000 pounds of initial ice the charge would be \$28.25 per car. Assuming the shipment could be safely transported under the cost-of-ice basis, section 4, with 6000 pounds, initial ice and 3000 pounds icing en route, the charge would be \$20.25 per car.

Shipments interstate from points east of Washington, Oregon, Nevada and Arizona to California under the cost-of-ice basis move at lower refrigeration charges than do shipments between points wholly within this state for substantially shorter distances. Butter from Montana and New Mexico is in competition with butter produced in California. A section 4 refrigeration charge on a shipment of this commodity from Great Falls, Montana, to San Francisco, requiring 6000 pounds initial icing and 4000 pounds reicing, is \$20 (5 tons at \$4), or exactly one-half the stated charge from San Francisco to Los Angeles. If the same shipment moved under section 4 with instructions "do not reice," and the bunkers are originally iced to their capacity of 11,000 pounds, the interstate charge would be \$22 and the intrastate charge under Rule 241 would be \$32.75. Similarly, a shipment of butter from Deming, New Mexico, to Portland, Oregon, with an initial icing of 6000 pounds and reicing of 4000 pounds at a point in California would be charged \$22.50 (5 tons ice at \$4.50), while a shipment from El Centro to San Francisco moving over a portion of the route traversed from Deming to Portland would be assessed \$50 per car under the stated charge, or under Rule 241, \$45.75 (5½ tons ice at \$6.50, plus \$10).

Defendants admit there is no transportation reason for a wide variance in the volume of the refrigeration charges in the different sections of the country on dairy and poultry products. They contend, however, the cost-of-ice basis (section 4) should be eliminated at all points and that the proper method of assessing charges is by the stated charge. In support of this theory they advance practically the same reasons as relied upon in *The Matter of Private Cars* (50 I. C. C. 62), viz, (a) carriers can not be expected or required to sell ice as a commodity; (b) a stated charge places unlimited responsibility upon the carrier, with freedom to give adequate and efficient refrigeration in transit; (c) a stated charge promotes conservation of food products by preventing waste; (d) it insures a parity of rates and equality between all shippers; (e) a charge based only on the cost of labor, ice and salt does not give the carrier compensation for the various other factors which form legitimate parts of the gross cost of furnishing refrigeration service; and (f) a stated charge is known in advance, hence is a convenience to the shipper, enabling him to quote prices f.o.b. destination.

Complainants maintain the stated charge is not, from an economical standpoint, adaptable to the movement of dairy and poultry products, inasmuch as these commodities move throughout the entire year and require varying amounts and character of refrigeration. They claim the stated charges based upon maximum service were published primarily for the fruit and vegetable traffic, which moves for relatively short periods in the warm months, often when field heat is present in the lading. Complainants admit the stated charges are proper for this class of traffic but contend where shippers uniformly precool commodities, such as dairy and poultry products, sometimes to a temperature as low as zero, and moving throughout the entire year, requiring only maximum refrigeration in the warmer months, that the stated charge places upon the shipper an undue burden and results in an economic waste, in that a service is performed not always required or desirable. Where refrigeration is required, it is urged, the extent thereof should be left to the discretion of the shippers; that the shippers in California should be accorded the same privileges as shippers located in the states where the cost-of-ice basis is in effect, and also that the volume of the intrastate freight rates in California on dairy and poultry products is sufficiently high to include all cost elements entering into the furnishing of refrigeration, except the supplying of ice and salt.

Butter, eggs, cheese and dressed poultry move in California under third class rates in carload lots and second class in less than carloads, with the exception that between certain specified points a few commodity rates are lower. The less than carload shipments in scheduled cars are accorded refrigeration services under the freight rates; hence in so far as these shipments are concerned the freight rates do embrace all elements of refrigeration including the furnishing of ice.

The carload rates, defendants contend, applying to the dairy and poultry products were established without consideration to any refrigeration service. In support of this contention they introduced in evidence, copies of S. P. Co. Circular 2836, and superseding issues, in effect from October 1, 1891, to October 10, 1906, providing that the freight rates applied only when the commodities were loaded and transported in ordinary cars and that when refrigerator cars were required and moved under ice, an additional charge of 25 per cent of the freight rate on carloads and 50 per cent on less than carloads would be made. During this period the carrier did not undertake to furnish refrigeration, but would supply the equipment, the shipper being compelled to furnish the refrigeration services. It was not until August 28, 1906, that the Southern Pacific published Tariff 3-R, naming specific amounts per car for performing the refrigeration. Shortly after the issuance of this tariff, October 10, 1906, the circular providing an additional

charge of 25 or 50 per cent was cancelled and a notation carried in the Cancellation Supplement to the effect that the freight rates in refrigerator cars without refrigeration would be the same as for the movement in ordinary cars. Defendants stress the fact that in Tariff 3-R, as well as the succeeding issues, a notation was carried to the effect that such charges were in addition to the regular transportation rates. They also point to the fact that for many years practically all line haul tariffs have contained a provision reading substantially as follows:

"The freight rates shown in tariff and as amended cover the charge for transporting the freight only and do not include a charge for any additional service, such as heating, icing, protection of property from frost and freezing, refrigeration service (including the transportation of ice) or other such accessorial service, unless otherwise specifically provided in tariffs lawfully on file with the Interstate Commerce Commission and State Railroad Commissions."

At the time these tariff declarations were published, practically the only commodities transported under refrigeration were fruits, vegetables, fresh meats and packing house products.

From this record we can not conclude that with the advent of a substantial movement of dairy and poultry products any special consideration was given by carriers to determine whether or not the general level of freight rates in California included any or all of the various cost elements properly chargeable to the use of refrigerator cars, nor is it in evidence that any special consideration has been given to this phase of the situation since 1910.

Defendants contend the cost of furnishing the complete refrigeration to dairy and poultry products exceeds the revenue, claiming the average cost of refrigerating 44 cars of eggs moving by the Santa Fe during the years 1924 and 1925, an average distance of 591 miles from groups C and D points to Los Angeles, Riverside and San Diego, under the stated charges, to be an average of \$56.54 per car, with an average revenue of \$39.91, or a loss of \$16.63 per car. According to defendants there was an average of approximately 8.06 tons of ice and 657.13 pounds of salt in each car at an average cost of \$4.41 per ton for ice and 53 cents per 100 pounds for salt, making a total cost of \$39.04 per car for both the ice and salt, while repairs to ice bunkers, switching, supervision, etc., make up the balance of \$17.50. If these same cars had moved under the section 4 basis and the same amount of ice and salt was used, the shipper would have paid \$4.50 per ton for the ice and 75 cents per 100 pounds for the salt, or a total of \$41.20 per car, giving the carriers more per car under section 4 basis than the average actually received under the stated charges. It is significant to note that only 19 of the 44 cars moved in the months of May to September, and the balance during the colder months of the year.

A somewhat similar exhibit by the Santa Fe during the same period shows 48 cars of butter and eggs moving from groups C. D. and E to

Oakland, Stockton, Fresno, Los Angeles and San Diego, requiring initial icing only, and on these shipments the average cost of refrigeration was claimed to be \$35.09, the revenue \$31.61, a loss of \$3.48 per car. Cost figures were also submitted, covering shipments via the Southern Pacific during the year 1924 and the first six months of 1925, and these statements allude to the fact that the cost of refrigeration on all the cars of record is in excess of the revenue received.

It appears from the record that dairy and poultry products do not require as great a degree of refrigeration as defendants have accorded; the preponderance of testimony indicating that the maximum amount of ice necessary to protect in the warm months is approximately $4\frac{1}{2}$ tons with no salt and during the cold months either a smaller amount of ice or only the protection of an insulated car.

Defendants urge, as heretofore stated, that the general level of freight rates in California is not high enough to include any portion of the cost of furnishing refrigeration, claiming that many of the rates applicable to dairy and poultry products are depressed by water and motor truck competition, particularly with respect to rates applying between the ports of San Francisco, Los Angeles and Eureka. Comparisons were also made between the rates on butter, eggs and cheese from San Francisco to Fresno; from Santa Cruz, Modesto, Hanford, Calexico, San Francisco and Santa Rosa to Los Angeles, and from Santa Cruz to San Francisco, with those established by the Interstate Commerce Commission in the Southwest Territory (Docket 1769, 96 I. C. C. 19), where the cost-of-ice basis prevails and on the class rates in effect from San Francisco to Los Angeles and San Diego with those prescribed by this Commission in the San Joaquin Valley (*Traffic Bureau of the Merchants Exchange vs. S. P. Co. et al.*, 1 C. R. C. 95), and by the Interstate Commerce Commission from points in California to points in Oregon (*Klamath County Chamber of Commerce vs. S. P. Co. et al.*).

An exhibit filed by an operating witness for defendants, for the purpose of showing the approximate cost of transporting ice in bunkers of refrigerator cars, estimates the average line haul cost per gross ton mile for all traffic moving over all Class 1 roads in the Western District during 1924 was 3.026 mills. While this figure can not be taken as controlling, it does indicate in a measure that if applied to the traffic in question and making due allowances for empty car mileage and terminal costs, the present freight rates are not unduly low.

Complainant directs attention to the fact that in many instances the carload revenue from dairy and poultry products is in excess of the revenue received from less than carload shipments of the same weight, and this situation exists as to eggs from Petaluma and San Francisco to Los Angeles and on butter from Modesto, Fresno and El Centro to Los Angeles, and from El Centro to San Francisco.

The following table compiled from complainant's exhibits, based on 20,000 pounds, is illustrative:

To Los Angeles from	Commodity	Total freight and refrigeration charges		
		Stated charge	L. C. L. charge	*Cost of ice basis
Petaluma -----	Eggs	\$186 00	\$170 00	\$164 00
Modesto -----	Butter	163 00	162 00	146 00
Fresno -----	Butter	145 00	140 00	128 00
El Centro -----	Butter	150 00	140 00	129 50
San Francisco -----	Eggs	255 00	280 00	228 00
To San Francisco from El Centro	Butter	280 00	276 00	249 50

*Based on 6000 lbs. initial icing and 2000 lbs. reicing en route.

Complainants stress the fact that the rates on fresh meats are generally the same as the rates on dairy and poultry products and the rates on packing house products are lower than either; also that shipments of fresh meats and packing house products moving in California, Arizona, Washington and Oregon, and requiring initial icing only are accorded the cost-of-ice basis, not subject to the charges in Rule 241.

In Case 997, *C. Swanston and Sons vs. Southern Pacific Company*, 12 C. R. C. 590, and Case 1671, *Western Meat Company et al vs. Southern Pacific Company et al.*, 23 C. R. C. 219, we held that the imposition of the Rule 241 charges on fresh meats and packing house products was unjust and unreasonable to the extent they exceeded the cost-of-ice basis. The Interstate Commerce Commission in *Frye and Company vs. Great Northern Railway Company et al.*, 88 I. C. C. 477, similarly held regarding fresh meat and packing house products moving from points in the states of Washington, Oregon and California to interstate destinations.

In Case 524, 4 C. R. C. 1001, *Klein-Simpson Fruit Company vs. The Atchison, Topeka and Santa Fe Railway et al.*, this Commission found that on shipments of eggs moving from Petaluma to Los Angeles, initially iced and shipped under instructions "do not reice en route" the assessing of any charge in addition to the cost of ice was unreasonable. We further found that on shippers' requests cars should be reiced en route by carriers at the actual cost of such ice. In disposing of this proceeding Commissioner Eshleman, speaking for the Commission, said:

"A larger question than this seems to be involved in this proceeding, and that is, the question of permitting the shipper to put in as much ice as he desires in a car and directing that it be forwarded through without further icing. This practice is indulged in by the carriers in moving eggs from Middle West territory to California and beyond, and no doubt works a serious discrimination against the egg producers of Petaluma. If the carriers actually pay more in some cases for the ice required properly to refrigerate a car of eggs than they receive for such services, it stands to reason that they should be very glad to be relieved of this loss, and if the shipper is willing to provide the initial icing and take chances on it moving through to destination without loss, the carriers should be no more reluctant to grant him this privilege than they are to grant similar privileges to shippers of eggs from Middle West states." (4 C. R. C. 1005.)

The Interstate Commerce Commission *In The Matter Of Private Cars* (50 I. C. C. 652) approved the cost-of-ice basis for the movement of fresh meats, packing house products and dairy products, and in the *Perishable Freight Investigation*, 56 I. C. C. 449, the Federal Commission in considering the cost-of-ice basis and the stated charge, said:

"The situation is complicated by the fact that the proposed tariff does not contemplate the abandonment of the cost-of-ice basis, but retains it in Section 4 in the case of such important commodities as fresh meats, packing house products, dairy products, fish, shell fish, cereal beverages, bananas, and cocoanuts. Moreover, so far at least as fresh meats, packing house products and dairy products are concerned, this basis of charging was approved by us *In The Matter of Private Cars, supra*, after an investigation in which the respective merits of the stated charge and cost-of-ice systems were considered."

After a careful consideration of all the facts of record we are of the opinion and find that the present practice of defendant carriers in requiring the shippers of butter, eggs, cheese and dressed poultry in carload lots under refrigeration to pay either the stated refrigeration charges as set forth in section 2, or the charges in addition to the cost of ice and salt as set forth in Rule 241 of Protective Tariff No. 3, C. R. C. No. 2, is unjust and unreasonable and in violation of sections 13 and 19 of the Public Utilities Act.

The complainants do not allege the charges are discriminatory but this record clearly shows that as between interstate and intrastate traffic the California shippers of the commodities involved in this proceeding are at a decided disadvantage.

We further find that the defendants, by proper tariff publication, should provide in Perishable Protective Tariff for the transportation of butter, eggs, cheese and dressed poultry between points in California on the cost-of-ice section 4 basis.

Complainants seek reparation first on the shipments made under the stated charges and second on the shipments made under the provisions of Rule 241 to the basis of the charges which might have accrued under section 4 rates, contending that a fair adjustment would be to assume that all of the carloads would have moved under the provisions of section 4 with 9000 pounds of ice per car. Since the shipments were transported under the two kinds of refrigeration service with charges assessed at legal tariff rates, it would be impossible to arrive at any amount except by an arbitrary and unproven method.

In a situation of this kind involving extensive territory, this Commission and the Interstate Commerce Commission have consistently denied reparation where the charges collected have been in effect for a long period of time. •

We conclude and find that complainants have not justified an award of reparation, and same will be denied.

ORDER.

This case being at issue upon complaint, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and conclusions contained in the opinion which precedes this order;

It is hereby ordered, that defendants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, The Western Pacific Railroad Company, Los Angeles and Salt Lake Railroad Company, Modesto and Empire Traction Company, Northwestern Pacific Railroad Company, Pacific Electric Railway Company, Petaluma and Santa Rosa Railroad, and Sacramento Northern Railway, according as they participated in the transportation, be and they are hereby directed and required to publish and establish on or before September 1, 1927, for the refrigeration of butter, eggs, cheese and dressed poultry moving between points in California, charges not in excess of those provided in and by section 4 of Perishable Protective Tariff No. 3, C. R. C. No. 2 of R. C. Dearborn, agent.

It is hereby further ordered, that as to all other issues the complaint be and it is hereby dismissed.

Dated at San Francisco, California, this eighth day of July, 1927.

DECISION No. 18588.

LOS ANGELES AND OXNARD DAILY EXPRESS AND LOS ANGELES
AND SANTA BARBARA MOTOR EXPRESS COMPANY, INC.,

vs.

OJAI, VENTURA AND LOS ANGELES EXPRESS AND FRANK C.
JOHNSON, OWNER.

Case No. 2299.

IN THE MATTER OF THE SUSPENSION BY THE COMMISSION ON ITS
OWN MOTION OF RULE 1-B NAMING INTERMEDIATE POINTS
BETWEEN LOS ANGELES AND VENTURA AS PUBLISHED IN OJAI,
VENTURA AND LOS ANGELES EXPRESS TARIFF C. R. C. NO. 7.

Case No. 2300.

Decided July 8, 1927.

SERVICE—AUTO TRUCKS—UNAUTHORIZED OPERATION—INTERMEDIATE POINTS—
DEFENDANT CARRIER.—Order to eliminate from its tariffs all reference to points
located between Ventura and Los Angeles, via Fillmore and to discontinue
service at such intermediate points, and also to eliminate Oxnard as an inter-
mediate point served.

Hugh Gordon, for Complainants.

Earl E. Ross, for Defendants.

BY THE COMMISSION.

OPINION.

These two proceedings involving the same issues were, by stipulation,
heard together and will be disposed of in one opinion and order.

Case No. 2299 is a joint proceeding of the Los Angeles and Oxnard Daily Express owned by W. O. and H. E. Fleischer and of the Los Angeles and Santa Barbara Motor Express Company, a corporation, against the Ojai, Ventura and Los Angeles Express, Frank C. Johnson, owner, alleging

(a) That defendant is operating common carrier motor trucks for the transportation of freight and express between Los Angeles and Ventura and has within the two months prior to the filing of this complaint engaged in transporting property to and from the intermediate points.

(b) That Harry M. Hunt, former owner of the Ojai, Ventura and Los Angeles Express, and his successor in interest, refused to accept shipments to and from the intermediate points for more than three years after receiving a certificate of public convenience and necessity, Application No. 4470, Decision No. 7334, April 3, 1920.

(c) That this Commission has never authorized the Ojai, Ventura and Los Angeles Express to serve the intermediate points.

(d) That defendant published in Rule 1-B of its tariff C. R. C. No. 7 the following provision:

“(b) Rates published herein applying between Los Angeles and Ventura or from Los Angeles to Ventura or vice versa, will apply to, from or between Los Angeles and intermediate points, as follows:

Camarillo	Newhall	Saticoy
Castaic	Oxnard	Saugus
El Rio	Piru	Simi
Fillmore	Santa Paula	Somis”
Moor Park	Santa Susana	

The complainants pray that this Commission issue an order suspending Tariff C.R.C. No. 7 and requiring defendants to desist from transporting property to or from points located between Los Angeles and Ventura.

Case No. 2300 was instituted December 13, 1926, on this Commission's own motion in response to the complaint in Case No. 2299, and Rule 1-B of the Ojai, Ventura and Los Angeles Express Tariff C. R. C. No. 7 was suspended.

Public hearings were held before Examiner Geary at Los Angeles February 8 and March 15, 1927, and the matter having been duly submitted is now ready for our opinion and order.

By Application No. 4470 filed with this Commission April 1, 1919, Harry M. Hunt sought a certificate of public convenience and necessity to operate freight and express service between Ojai, Ventura and Los Angeles *and intermediate points*. The evidence clearly showed that applicant was operating prior to May 1, 1917; that he had continued such operation from May 1, 1917, to the time of filing Application No. 4470, therefore a certificate of public convenience and necessity was not required, and applicant was instructed in Decision No. 7334 of

April 3, 1920, to file tariffs and time schedules governing the operations between Los Angeles, Ojai, Ventura and *intermediate points*. A tariff issued in compliance with the decision was filed May 5, 1920.

On May 12, 1920, Harry M. Hunt and Waterman & Carne filed a joint application seeking an order authorizing the transfer of the operative rights from Harry M. Hunt to Waterman & Carne. This transfer was authorized by Decision No. 7689, dated June 8, 1920, and Waterman & Carne filed an adoption tariff supplement July 14, 1920.

Waterman & Carne published effective April 5, 1921, their Local Tariff C. R. C. No. 1. Rule 1 of the tariff reads:

"Rates to or from intermediate points not shown herein will be the same as the next more distant point to or from which rates are published."

On October 20, 1922, Tariff C. R. C. No. 2 became effective. This tariff was issued in compliance with the order in Application No. 8034, Decision No. 11068 of October 7, 1922, authorizing the use of Monroe's Ship by Truck Classification and also making certain reductions in rates.

In Decision No. 11301, dated December 1, 1922, Waterman & Carne were authorized to transfer the operative rights, title and interest in Ojai, Ventura and Los Angeles Express to George R. Carne, and Adoption Supplement No. 1 to Tariff C. R. C. No. 2 was published, effective December 15, 1922.

On May 23, 1923, a joint application was filed by George R. Carne to sell and Frank C. Johnson to purchase and operate the auto truck line operating between Los Angeles, Ventura and Ojai and intermediate points. The transfer was authorized by Decision No. 12144 of May 25, 1923, paragraph 3 of the order reading:

"Applicant Frank C. Johnson shall immediately file, in duplicate, tariff of rates and time schedules or adopt as his own the tariff of rates and time schedules as filed by applicant Carne covering service, certificate for which is herein authorized to be transferred. All tariff of rates and time schedules to be identical with those as heretofore filed by applicant Carne."

Adoption Supplement No. 4 to Ojai, Ventura and Los Angeles Express Tariff No. 2 was issued for the purpose of taking over all rights, titles and interest of George R. Carne.

The rates, rules and regulations maintained by Ojai, Ventura and Los Angeles Express, Frank C. Johnson, owner, have been published in tariffs carrying C. R. C. Nos. 3, 4, 5, 6 and 7, successively including a rule providing for the application of rates at intermediate points but not naming the specific points.

The issue here presented is whether or not defendant has the right, either by virtue of prior operations of its predecessors or by the terms of the certificate granted in Decision No. 12144, May 25, 1923, to

operate its auto trucks for the transportation of property between the intermediate points in question on the through routes from Los Angeles to Ventura and Ojai.

There are three highways between Los Angeles and Ventura. The first and most direct, known as the Ventura boulevard, is through the communities of Calabasas, Newberry Park, Camarillo, El Rio and Montalvo; the second, known as the Santa Susana route, is through Santa Susana, Moorpark and Somis; and the third and most circuitous is through Saugus, Newhall, Fillmore and Santa Paula.

The operative rights of the Los Angeles and Santa Barbara Motor Express Company extend from Los Angeles to Santa Barbara via the northern route, through Saugus, Fillmore and Ventura, and those of the Los Angeles and Oxnard Daily Express extend from Los Angeles to Oxnard via the Ventura boulevard, also via the Santa Susana Pass route through El Rio to Oxnard.

Neither one of these lines serves Montalvo, and the defendant in these proceedings is the only line handling freight by motor trucks from Ojai, Ventura and Montalvo to the intermediate points along Ventura boulevard and the route through Santa Susana Pass.

Defendant Johnson testified that he purchased the operative rights, equipment and all interest of the Ojai, Ventura and Los Angeles Express Company May 25, 1923; that from June, 1919, to the time of purchase he was employed by the former owners in various capacities, such as driving trucks, receiving and delivering freight at Los Angeles and Ventura and collecting the freight charges. He testified further that from the beginning of his employment, in June, 1919, up to December 14, 1926, at which time the order of suspension in Case No. 2300 was issued, that the intermediate territory had been served whenever freight was offered. There were introduced in evidence 322 freight bills covering shipments destined to the intermediate points during the period from January 1, 1925, to December 13, 1926, inclusive, having a total weight of 284,191 pounds.

These freight bills show that defendant did not handle any shipments at the intermediate points via the third route, through Saugus, Newhall, Fillmore and Santa Paula, with the exception of a few shipments of paint in October and November, 1925, principally to Piru, Fillmore and Santa Paula on behalf of one consignee, which consignments, according to the testimony of witnesses, were for a special job in the construction of a pipe line. No other shipments were moved to intermediate points over the Fillmore route until the beginning of December, 1926, and Tariff C. R. C. No. 7, effective December 13, 1926, was apparently published to specifically name the intermediate points which this defendant then decided to serve and to which points business was solicited. The same situation was developed as to shipments destined to Oxnard;

none were handled prior to December 1, 1926, and only ten shipments December 1 to December 14, the date our suspension order took effect. Oxnard is not directly intermediate between Los Angeles and Ventura, therefore we find that defendant had no legal right to accept tonnage to or from that point.

Witnesses called in behalf of complainants testified the defendant and its predecessors had refused to serve intermediate points and that when shipments were tendered at the joint terminal in Los Angeles consigned to the intermediate points, they were turned over to the other carriers.

Complainants submitted 10 bills of lading covering shipments received at Los Angeles during the years 1924 and 1925, purporting to have been originally routed via defendant's line to intermediate points, and subsequently rerouted via the Los Angeles and Oxnard Daily Express.

The testimony showed that defendant and complainants occupied a joint terminal in Los Angeles for many years, and that the employees at times as a matter of convenience receipted for freight for each other; therefore the mere fact that bills of lading having the received stamp of the Ojai, Ventura and Los Angeles Express were transferred to another line is not sufficient grounds for finding that this defendant or its predecessors did not serve any of the intermediate points.

It is clear from the testimony and exhibits that defendant has regularly transported freight in the past to the intermediate points between Los Angeles and Ventura via route 1, known as the Ventura boulevard, including Calabasas, Newberry Park, Camarillo, El Rio and Montalvo, and via route 2, known as the Santa Susana boulevard, including Santa Susana, Moorpark and Somis, but has not according to this record rendered services at the intermediate points on route 3 through Saugus, Newhall, Fillmore and Santa Paula. The fact that only one consignment was handled to route 3 destinations in the year 1925 and none in 1926 until after December 1, 1926, would indicate that defendant had voluntarily abandoned route 3 intermediate points, although the route was used occasionally in connection with through traffic from Los Angeles to Ventura or Ojai.

After careful consideration of all the evidence and exhibits we are of the opinion and find as a fact that defendant and its predecessors were granted a certificate of public convenience and necessity to operate trucks for the transportation of property for compensation between Los Angeles, Ventura and Ojai and the intermediate points; that defendant served the intermediate points via Ventura boulevard and via the Santa Susana boulevard, but did not undertake to and did not serve the intermediate territory between Ventura and Los Angeles via the Fillmore route, and that such action in the past is in effect an aban-

donment of the route. We are further of the opinion that the service via Fillmore can not now be revived without a new certificate of public convenience and necessity; this in view of the fact that the Los Angeles and Santa Barbara Express, one of the complainants in Case No. 2299, has regularly and continuously served the intermediate territory between Los Angeles and Ventura over the Fillmore route.

The investigation in Case No. 2300 will be discontinued.

ORDER.

These cases being at issue upon complaint, and answers on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and the Commission on the date hereof having made and filed its opinion containing its findings of fact and conclusions thereon, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Ojai, Ventura and Los Angeles Express, Frank C. Johnson, owner, cancel from its tariff all reference to points located between Ventura and Los Angeles via Fillmore, and discontinue service at such intermediate points.

It is further ordered, that applicant eliminate all reference to Oxnard as an intermediate point and discontinue service to that point.

It is further ordered, that Case No. 2300 be and it is hereby discontinued.

Dated at San Francisco, California, this eighth day of July, 1927.

DECISION No. 18589.

IN THE MATTER OF THE APPLICATION OF EASTMONT WATER COMPANY, A CORPORATION, AND BELVEDERE WATER CORPORATION, A CORPORATION, FOR AN ORDER AUTHORIZING THE SALE AND CONVEYANCE OF THE WATER PLANT OF EASTMONT WATER COMPANY TO SAID BELVEDERE WATER CORPORATION.

Application No. 13853.

Decided July 8, 1927.

TRANSFER—WATER UTILITY—To SELL.—Eastmont Water Company authorized to sell and Belvedere Water Corporation to purchase for not exceeding \$26,250, the properties of the former, and the latter is authorized to continue in effect the present rates, rules and regulations of the utility now on file with the Commission.

McCutchen, Olney, Mannon and Greene and Gibson, Dunn and Crutcher, for Applicants.

BY THE COMMISSION.

OPINION.

This application is for an order authorizing Eastmont Water Company, a corporation, to sell and transfer its properties to Belvedere Water Corporation, a corporation.

The application shows that Eastmont Water Company is engaged in supplying water for domestic and other purposes to about 540 consumers in a portion of the county of Los Angeles, more particularly described as follows:

Beginning at the northerly corner of Tract No. 5445, as shown on map recorded in book 59, page 69 and 70 of maps, records of Los Angeles County; thence southwesterly along the northwesterly line of said tract to the northwesterly corner of lot 76 thereof; thence easterly in a direct line to the northeasterly corner of lot 102 of Tract No. 5438, as shown on map recorded in book 65, page 26 of maps, records of said county; thence easterly parallel with the northerly line of Whittier boulevard, as shown on said last mentioned map to the southwesterly boundary of the city of Montebello, as the same existed on March 29, 1923; thence northwesterly along said southwesterly boundary and along the northeasterly line of above mentioned Tract No. 5445 to the point of beginning.

This territory is entirely surrounded by the territory served by the water system and works of Belvedere Water Corporation. The properties to be transferred are described in Exhibit "A" as follows:

LAND.

Westerly 21.25 feet of Lot 698, Tract 5445, recorded in book 59, pages 69 and 70, of maps, records of Los Angeles County (known as Lower well site).
Lot 612, Tract 5445, recorded in book 59, pages 69 and 70, of maps, records of Los Angeles County (known as Upper well site).

BUILDINGS.

Located on westerly one-half ($\frac{1}{2}$) of Lot 698.
Office, 12' x 18'—frame building.
Pump house, 12' x 44'—frame building.
Derrick, 14' x 14' x 34'—Wood.
Located on lot 612.
Pump house 12' x 36'—frame building.

TANKS.

Located on lot 612.
1 steel tank 20' diameter, capacity 108,000 gallons.
1 redwood tank, 18' diameter, capacity 36,000 gallons.

EQUIPMENT.

Located on lot 698, westerly one-half ($\frac{1}{2}$).
1 24" 4-stage Lane & Bowler pump (belt head) 80' to bowls.
1 75 h.p. Fairbanks-Morse 440 v. motor.
1 Fairbanks-Morse starter.
1 Well-depth 1250'-27" pit to 100'-12" casing to 750'—no casing beyond.
Located on lot 612.
1 8" Johnson pump (direct drive).
1 50 h.p. Westinghouse motor, 440 v.
1 Westinghouse automatic starter and assembly.
1 Well, depth 503 ft., 12" casing.

FRANCHISE.

Granted by county of Los Angeles, under Ordinance No. 894. Territory covers all of tracts 5445 and 5438, Los Angeles County.

PIPE LINES, VALVES AND SERVICE CONNECTIONS.

Applicants have filed in this proceeding a report prepared by Arthur Anderson & Co., certified public accountants, in which the historical cost of the properties, as of April 30, 1927, is reported at \$58,320.46.

The record shows that on June 1, 1927, the two corporations, applicants herein, entered into an agreement, by the terms of which Eastmont Water Company agreed to transfer all of its properties, free and clear of lien and incumbrances, except current taxes, to Belvedere Water Corporation for the aggregate sum of \$26,250. The purchaser agrees to take over the obligation of service now resting on the owner of the properties. We believe, however, that Belvedere Water Corporation should continue in effect, until changed by order of this Commission, the rates now on file by Eastmont Water Company.

ORDER.

Application having been made to the Railroad Commission for an order authorizing Eastmont Water Company to sell and transfer public utility water properties to Belvedere Water Corporation, and the Commission being of the opinion that this is a matter in which a public hearing is not necessary, and that the application should be granted, as herein provided;

It is hereby ordered, that Eastmont Water Company, a corporation, be and it hereby is authorized to sell and transfer the properties described in this application, free and clear of all liens and encumbrances except current taxes, to Belvedere Water Corporation for not exceeding \$26,250, said transfer to be made pursuant to the terms and conditions set forth in the agreement dated June 1, 1927.

It is hereby further ordered, that the authority herein granted is subject to the following conditions:

1. The price at which Eastmont Water Company is authorized to transfer its water system shall not be urged, hereafter, before this Commission or other public body or court having jurisdiction as a measure of value of such system for any purpose other than the transfer herein authorized.

2. Within thirty days after the transfer of the properties, Eastmont Water Company shall file with the Commission a certified copy of the instrument of conveyance and on or before the same time shall file a certified statement indicating the exact date upon which it relinquished possession and control of the system.

3. Upon acquiring the properties Belvedere Water Corporation shall continue in effect, until changed by order of this Commission, the rates, rules and regulations of Eastmont Water Company now on file with the Railroad Commission.

4. All consumers' deposits which are to be returned under the rules and regulations of Eastmont Water Company shall be transferred to Belvedere Water Corporation and returned by it pursuant to said rules and regulations.

5. The authority herein granted will become effective twenty days after the date hereof.

Dated at San Francisco, California, this eighth day of July, 1927.

DECISION No. 18593.

THE MUNICIPAL LEAGUE, A VOLUNTARY ORGANIZATION OF THE CITIZENS OF THE CITY OF LOS ANGELES, STATE OF CALIFORNIA,

vs.

THE SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

Case No. 970.

THE CENTRAL DEVELOPMENT ASSOCIATION OF LOS ANGELES, A VOLUNTARY ORGANIZATION OF THE CITIZENS OF THE CITY OF LOS ANGELES, STATE OF CALIFORNIA,

vs.

THE SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAN PEDRO AND SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

Case No. 971.

THE CIVIC CENTER ASSOCIATION OF LOS ANGELES, A CORPORATION OF THE CITIZENS OF THE CITY OF LOS ANGELES, STATE OF CALIFORNIA,

vs.

THE SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY.

Case No. 972.

THE CITY OF PASADENA, A MUNICIPAL CORPORATION,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, AND CITY OF LOS ANGELES.

Case No. 974.

THE CITY OF ALHAMBRA, A MUNICIPAL CORPORATION,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY AND CITY OF LOS ANGELES.

Case No. 980.

THE CITY OF SAN GABRIEL, A MUNICIPAL CORPORATION,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY,

SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY AND CITY OF LOS ANGELES.

Case No. 981.

THE CITY OF SOUTH PASADENA, A MUNICIPAL CORPORATION,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, SOUTHERN PACIFIC COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, SAN PEDRO, LOS ANGELES AND SALT LAKE RAILROAD COMPANY AND CITY OF LOS ANGELES.

Case No. 983.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY AND LOS ANGELES AND SALT LAKE RAILROAD COMPANY FOR APPROVAL OF AGREEMENT FOR JOINT TERMINAL FACILITIES IN LOS ANGELES, CALIFORNIA.

Application No. 3346.

Decided July 8, 1927.

TRANSPORTATION—STEAM RAILROAD—STATION ACCOMMODATIONS—UNION TERMINAL — TRACKAGE FACILITIES — ABANDONMENT — EXTENSION. — Public convenience and necessity permit the abandonment of all passenger and freight switching on the main line of the Southern Pacific Company on Alameda Street, from College Street to East 15th Street, inclusive, in the city of Los Angeles.

EXISTING FACILITIES—EXTENSION OF—NOT REQUIRED.—The extension of new or present facilities as described in the application of Southern Pacific Company and Los Angeles and Salt Lake Railroad Company is not required by public convenience and necessity.

UNION TERMINAL—PUBLIC NECESSITY—TRACK REARRANGEMENT.—The extension of the main lines of defendant railroads so as to serve a union passenger terminal in that portion of Los Angeles bounded by Commercial, North Main and Redondo Streets, Alhambra Avenue and the Los Angeles River and the rearrangement of passenger and freight routes incidental to the convenient and proper operation of such union passenger station and terminal, is required by public convenience and necessity.

EXPENSES—ABILITY OF CARRIERS—NOT IMPAIRED.—The expenses involved therein will not impair the ability of the railroad companies to perform their respective duties to the public.

ABANDONMENT—MAIN LINE TRACKS.—Public convenience and necessity will permit the abandonment by defendants of such portions of their main lines, or the operation of all or any portion of the present train service thereon as may be incidental to the rearrangement of its passenger or freight routes, tracks or terminal facilities in connection with the establishment of such union passenger station and terminal.

MAIN LINE TRACKS—JOINT USE.—The use of so much of the terminal main line tracks of any of defendants by any other defendant necessary in the proper operation of such union station will be in the public interest.

COST—COMMISSION'S ESTIMATE.—A union passenger station can be constructed by defendants, with incidental track arrangement, according to the Commission's plan, at a cost of approximately \$10,000,000.

UNION STATION—PUBLIC INTEREST.—Such union passenger station would be in the public interest and ought to be constructed.

COMMISSION'S ORDER—CONDITIONAL PROVISION—INTERSTATE COMMERCE COMMISSION AUTHORIZATION.—The Commission's order to become effective upon issuance of necessary order or certificate by Interstate Commerce Commission. Commission's attorney directed to file petition with Interstate body for such authorization.

Hugh Gordon, for Central Development Association.

James H. Howard, City Attorney, and *Roscoe R. Hess*, Deputy City Attorney, for City of Pasadena.

C. W. Burbrow, for Southern Pacific Company.

A. S. Halsted and *Fred E. Pettit, Jr.*, for Union Pacific and Los Angeles and Salt Lake Railroad Company.

E. W. Camp, for The Atchison, Topeka and Santa Fe Railway Company.

Frank Karr, for Pacific Electric Railway Company.

Jess E. Stephens, City Attorney, *Milton Bryan*, Deputy City Attorney, and *Max Thelen*, Special Counsel, for City of Los Angeles.

H. H. Sanborn, *A. B. Roehl* and *Spencer Thorpe*, for W. H. Daum, Intervener.

H. R. Brashear, for Los Angeles Chamber of Commerce.

George A. Damon for Regional Planning Commission and City Planning Association.

Will D. Gould, for Northwest Association.

BY THE COMMISSION.

OPINION.

The facts and issues primarily involved in these proceedings, together with the early history thereof, are to be found in our prior Decisions Nos. 8901 and 9838 herein, and require no repetition here.

ACTION OF STATE SUPREME COURT.

Subsequent to the rendition of Decision 9838, writs of review were obtained from the California Supreme Court by The Atchison, Topeka and Santa Fe Railway Company, the San Pedro, Los Angeles and Salt Lake Railroad Company, and the Southern Pacific Company, and on December 19, 1922, that court annulled our said Decision No. 9838 upon the ground that, by reason of the enactment by congress of certain amendments to the Interstate Commerce Act in 1920:

"Full power and authority over the matter of union terminal depot facilities of the railroads who are largely engaged in interstate commerce * * * has been vested in the Interstate Commerce Commission under the terms of said amendatory act of 1920, and that by virtue thereof the Railroad Commission of California * * * has been divested of the power, authority and jurisdiction over that subject, sought by it to be exercised in the several proceedings before it and by the order presented for review herein." (*The A. T. & S. F. Ry. Co. vs. Railroad Commission*, 190 Cal. 214; 211 Pac. 460.)

ACTION OF UNITED STATES SUPREME COURT.

Affirming this result, but upon narrower grounds, the United States Supreme Court, in proceedings brought before it under writs of certiorari obtained by this Commission, declared, on April 7, 1924, that the only question before it was "whether the power to direct a new union station with its incidents is committed exclusively to the Interstate Commerce Commission under the Act of 1920," and held that:

"Until the Interstate Commerce Commission shall have acted under paragraphs 18 to 21 of section 402 of the Transportation Act, the respondent railways can not be required to provide a new interstate union station and to extend their main tracks thereto as ordered by the State Railroad Commission."

The court further said that such action requires:

"a certificate of the Interstate Commerce Commission as a condition precedent to the validity of any action by the carriers or of any order by the State Commission," together with a finding "that the expense involved will

not impair the ability of the carriers concerned to perform their duty to the public." (*Railroad Commission vs. Southern Pacific Company*, 264 U. S. 331; 68 L. ed. 713.)

ACTION OF INTERSTATE COMMERCE COMMISSION.

Subsequent to the rendition of the California Supreme Court's decision above mentioned, but prior to that of the United States Supreme Court, the city of Los Angeles filed with the Interstate Commerce Commission a petition asking that these carriers be required to erect a union passenger station in the city of Los Angeles substantially in the manner ordered by this Commission in its Decision No. 9838 (I. C. C. Docket No. 14778). With reference to this action, the United States Supreme Court declared that the course pursued by the city of Los Angeles was correct. This Commission intervened on behalf of the city in said proceeding, and after lengthy hearings, the Interstate Commerce Commission, on July 6, 1925, issued its order.

Upon the rendition of the decision of the United States Supreme Court two other applications were filed with the Interstate Commerce Commission. In the first of these (Finance Docket No. 3556), the Southern Pacific Company and Southern Pacific Railroad Company sought authority to abandon main line train operation over a portion of their railroad along Alameda street in Los Angeles. In the second (Finance Docket No. 3569), these companies and the Los Angeles and Salt Lake Railroad Company together sought from the Interstate Commerce Commission certificates of public convenience and necessity approving a plan for the joint use of the present Southern Pacific passenger station in Los Angeles (sometimes referred to as the "Arcade station") by said companies substantially in the manner requested several years ago by these carriers in Application No. 3346 before this Commission, which application had been dismissed by us in our Decision No. 9838 herein. In its Decision of July 6, 1925, above mentioned, the Interstate Commerce Commission found that public convenience and necessity does not require the construction proposed and described in this connection, and the application of these carriers involving authority to construct extensions looking toward such joint use of the said Southern Pacific station (Finance Docket No. 3569) was denied.

Upon the issue presented by the complaint of the city of Los Angeles, however, the Interstate Commerce Commission declared that the service afforded by the present passenger stations of the Atchison, Topeka and Santa Fe Railway and Los Angeles and Salt Lake Railroad is "unreasonable and inadequate," and that the expenditure of considerable sums of money must at once be made in order to provide reasonable and adequate facilities in lieu thereof; that railroad service, except industrial freight-switching service, should be eliminated from Alameda

street, and that such action will force the Southern Pacific Company either to provide new means of access to its Arcade station or to abandon the same and provide other facilities, the expenditure of substantial sums of money being required on the part of this carrier in either event. The Interstate body then found that these carriers are in a position to provide reasonable and adequate station facilities, and that "the expense involved will not impair their ability to perform their duties to the public." Thus the first requirement of the United States Supreme Court was met.

We shall not here recount in detail the discussion of the Interstate Commerce Commission upon the general subject of a union passenger terminal in Los Angeles. Suffice it to say that that body approved the selection of a site for such a union passenger terminal within a described area near the Plaza in Los Angeles which had been made in our Decision No. 9838 herein, and, upon consideration of the evidence before it, and after a discussion of the advantages of such a solution of this problem, it declared that, in its opinion, a union passenger terminal could be erected upon the said Plaza area in compliance with our former order for a sum aggregating approximately \$9,500,000 or at a new money cost of about \$5,500,000. A large portion of this particular site is already owned by the Southern Pacific Company. The Interstate Commerce Commission further declared that future extensions or enlargements at the Arcade site would be considerably more expensive, in its opinion, than at the Plaza area, and it added that

"Adequate and convenient union passenger terminal facilities can be provided in the Plaza area at a considerably less net new money cost than less adequate and convenient facilities under applicants' Arcade plan, and for approximately the same net new money cost as a union passenger terminal of more questionable merit on the present Arcade site."

The Interstate Commerce Commission then made the following findings:

"1. That the present and future public convenience and necessity permit the abandonment of operation of all passenger and freight train service, except industrial freight-switching service, on the main line of the Southern Pacific on Alameda street from College street to East Fifteenth street, inclusive, in the city of Los Angeles, California.

2. That neither the present nor future public convenience and necessity require or will require the construction or extension by applicants of new or existing main lines of railroad in the city of Los Angeles, California, as described in the application in Finance Docket No. 3569.

3. That the present and future public convenience and necessity require and will require (a) the extension by defendants of their respective main lines of steam railroad in the city of Los Angeles, California, so as to reach and properly serve any union passenger station and terminal within that portion of said city bounded by Commercial street, North Main street, Redondo street, Alhambra avenue, and the Los Angeles River, which they or any of them may construct and establish in accordance with a lawful order of the Railroad Commission of California, and (b) the extension of their respective main lines so as properly to provide for the rearrangement of passenger and freight routes incidental to the convenient and proper operation of such union passenger station and terminal.

4. That the extensions referred to in the preceding paragraph are reasonably required in the interest of the public convenience and necessity, and that the expense involved therein will not impair the ability of defendants to perform their respective duties to the public.

5. That, in addition to the abandonment of service on Alameda street as above authorized, the present and future public convenience and necessity permit the abandonment by defendants of such portions of their respective main lines of steam railroad in the city of Los Angeles, California, or of the operation of all or any portion of the present interstate train service thereon as may be incidental to the rearrangement of passenger and freight routes, of tracks, and of terminal facilities, made necessary or proper in connection with the construction and establishment by defendants, in accordance with a lawful order of the Railroad Commission of California, of a union passenger station and terminal within that portion of said city described in paragraph 3 above.

6. That the use by any defendant steam carriers of so much of the terminal main-line track or tracks of any of the other defendant steam carriers in the city of Los Angeles, California, as may be incidental, and necessary or convenient, to the proper operation of any such union passenger station and terminal as defendants, or any of them, in accordance with a lawful order of the Railroad Commission of California, may construct and establish in that portion of said city described in paragraph 3 above, is in the public interest and is practicable, without substantially impairing the ability of the carrier or carriers owning or entitled to the enjoyment of such track or tracks to handle its or their own business.

An order will be entered denying the application in Finance Docket No. 3569. We are not advised what action, if any, the Railroad Commission of California will take in connection with these matters, and under the existing circumstances we will issue no certificates or further orders at this time. We will retain jurisdiction of No. 14778 and Finance Docket No. 3556 for the purpose of making such further findings and orders and issuing such certificates as the record warrants. The findings and order now made are based upon the present record and upon the plans presented to us. If, in the development of a union passenger terminal plan, the carriers or the Railroad Commission of California involve a plan considerably more extensive than, or materially different from, a plan for a station within the Plaza area as here considered to be in the public interest, our ultimate findings as to the public convenience and necessity, and as to impairment of the carriers' ability to handle their own traffic and to perform their duties to the public, will of course be based upon a consideration of those facts rather than upon the present record."

Thus the Interstate Commerce Commission provided for compliance with the second requirement of the United States Supreme Court.

FURTHER PROCEEDINGS BEFORE THIS COMMISSION.

Subsequent to the rendition of this decision, and upon request of certain of the parties to these proceedings, this Commission reopened the above-entitled matters for further consideration and determination. Hearings were had before the Commission sitting *en banc*; evidence was taken from a large number of interested persons dealing with the subject from every angle, and voluminous briefs have been filed.

In view of our previous findings and order herein, and of the order and decision of the Interstate Commerce Commission relating to this matter, it would appear that in these reopened proceedings the chief question before us is whether, since the rendition of our Decision No. 9838 herein, any facts have developed or any events have occurred of

such a character as to justify action on our part reversing the position which we have heretofore taken in this matter.

At the hearings in the reopened proceedings, after making certain technical objections to our jurisdiction to proceed further with these matters—which objections were overruled—the carriers again presented their plan for a solution of the passenger terminal problem in Los Angeles by the use of separate facilities, including the joint use of the Arcade station of the Southern Pacific Company by that company and the Salt Lake Railroad Company, together with the erection of a new station on the part of the Santa Fe at its present passenger station site. While we have listened to this testimony and have received briefs dealing with the subject, it is our opinion that, in view of the action of the Interstate Commerce Commission in this matter, we could not now—even if we were so disposed—authorize or direct the execution of this plan. The proposal of the carriers, as presented to us in these reopened proceedings, is in all essential respects similar to that formerly presented to us in Application 3346, heretofore dismissed by us, and also to that presented to the Interstate Commerce Commission in Finance Docket No. 3569, which was denied. Except for slight changes in detail, and save for certain other minor changes in the proposed participation of the Pacific Electric Railway Company in the plan, it is the same as hereinbefore dismissed. Although in these reopened proceedings we have given full opportunity for the production of all testimony desired to be offered in support of this plan for separated facilities, nothing, in our opinion, has been added to the record already before us in this connection which would impel us to reverse our former opinion as to this proposal. We will, therefore, again dismiss this application on the part of the carriers.

Since the date of our Decision No. 9838, certain of the dangerous grade crossings along the Los Angeles River have been and are being eliminated by means of the erection of viaducts crossing the river and the railroad tracks lying adjacent thereto and on both sides thereof, under and by virtue of orders issued by this Commission in a proceeding known as Application No. 9671 filed by the city of Los Angeles, county of Los Angeles, Atchison, Topeka and Santa Fe, Los Angeles and Salt Lake and Pacific Electric Railway companies. The Alameda street grade crossings have not as yet been eliminated, nor has the Southern Pacific Company moved to eliminate main line train movements thereover—though conditions at these crossings are admittedly becoming worse day by day—save by again pressing before this Commission and the Interstate Commerce Commission the carriers' plan for separated facilities herein dismissed. Moreover, the Alameda street situation has been somewhat changed and apparently aggravated by the interjection of certain Salt Lake trains using a portion of that

street as a means of temporary access to the Arcade station. Some freight movements have been transferred by the Southern Pacific Company from Alameda street to the river bank tracks, but the evidence indicates that the situation along that street as a whole is no less aggravated than it was at the time of our former order herein.

Much evidence was introduced by the carriers in these reopened proceedings dealing with certain proposed participation of the Pacific Electric Railway, an electric street and interurban carrier and Southern Pacific subsidiary, in the carriers' separated facilities plan. There were also presented a number of proposals for union passenger terminals in the city of Los Angeles differing to a greater or less degree from those hitherto filed herein, and located both within the so-called Plaza site or area, as defined in our Decision No. 9838 herein, and in other locations. Such proposals were presented by W. H. Daum, who filed a complaint against these carriers (Case No. 2177) praying for an order directing them to erect a union passenger depot at a site on the east bank of the Los Angeles River between Seventh and Ninth streets; by the Municipal League of Los Angeles for a "twin station" with head houses on each side of the river near Sixth street; by George D. Hall for a union station to face a new Plaza at the junction of Spring street and Sunset boulevard; by the Allied Architects' Association, through Charles H. Cheney, for a station with head house fronting on Temple street and Los Angeles street, with tracks extending north from Temple street between Los Angeles and San Pedro streets; by Joseph A. Stark for a station in an area bounded by Los Angeles, San Pedro, First and Market streets, fronting on Los Angeles street; by A. D. Austin for a station in an area bounded by First, Plaza, Main and Los Angeles' streets; and, after inquiry upon our part, a plan prepared in the offices of the carriers for a station within the Plaza area considerably greater in extent and different in character from those heretofore presented for a station within that area.

We have carefully considered the testimony adduced in favor of each of these several proposals, together with the briefs filed in support thereof, and while some of these plans appear to possess certain merit, it is our opinion that in the case of none of them has evidence or argument been produced before us sufficient to justify us in reversing our findings and rulings heretofore entered herein and presented to and approved by the Interstate Commerce Commission.

In this connection we should state that further testimony was presented, both by the city of Los Angeles and by certain members of this Commission's staff, upon the question of the availability, accessibility and propriety of the Plaza area, as defined in our Decision No. 9838 herein, and in the Decision of the Interstate Commerce Commission in Docket 14778, for a union passenger terminal station in Los

Angeles. Much testimony was also adduced from various sources dealing with the probable cost of such a station. This testimony, in our opinion, fails to support the contention made on many occasions by the carriers that this plan involves the expenditure of "from twenty-five to forty-five millions of dollars." We find no basis in the evidence before us which would make possible such a contention, and we are of the opinion that the findings made by the Interstate Commerce Commission, as briefly outlined above, to the effect that an adequate union passenger terminal station, together with the necessary facilities for access thereto, can be constructed within this area for an amount approximately \$9,500,000, and at a net new money cost not to exceed approximately \$5,500,000, are not subject to serious question. Much of the testimony brought before us in these reopened proceedings concerned a proposal for a union station in the Plaza area presented by George S. Hill of this Commission's staff. (Commission's Exhibit 4-b herein.) This proposal is identical in all essential respects to the plan suggested by Mr. Hill before the Interstate Commerce Commission, that body having had it before it as illustrative of the possibilities of the Plaza area.

In its analysis of probable costs, the Interstate Commerce Commission has set forth its conviction that adequate passenger terminal facilities can be constructed by these carriers in this area, together with all necessary trackage connections and rearrangement for a sum which it declares to be reasonable and proper. We find in the testimony before us no reason to doubt that the findings of probable cost so made by the Interstate Commerce Commission are correct, and we are of the opinion that adequate passenger terminal facilities can be erected upon this site for a cost of approximately \$10,000,000 gross, and of approximately \$5,500,000 net new money.

The Interstate Commerce Commission has made its findings definitely denying the application of the carriers to put into effect their plan for separated passenger terminal facilities, and it has also found that upon the rendition of a lawful order of this Commission requiring the erection of a union passenger depot within this area, under plans not materially differing from those presented to it, it will issue its certificates in connection with these matters under the requirement of the decision of the United States Supreme Court.

We shall therefore enter herein an appropriate order. The effectiveness of our order herein will be specifically conditioned upon the promulgation by the Interstate Commerce Commission of such further certificates and findings as may be necessary or proper to authorize the construction, extensions and abandonment herein directed, it being our intent and purpose that the further findings and certificates mentioned by the Interstate Commerce Commission in its Decision in its

Docket No. 14778 and its Finance Docket No. 3556 be made prior to this order going into effect. We will direct our Attorney to call this matter to the attention of the Interstate Commerce Commission by proper petition.

ORDER.

Complaints and an application having been filed, as above entitled, said matters having been reopened for further hearing and determination, hearings having been had, testimony having been presented, briefs having been filed, the said matters having been submitted for decision, the Commission having considered said testimony and briefs, and being now fully informed in the premises, and basing its order upon the findings hereinbelow set forth and upon such other findings and statements of fact as are included in the opinion herein:

It is hereby found as a fact:

(1) That the present and future public convenience and necessity permit the abandonment of operation of all passenger and freight train service, except industrial freight-switching service, on the main line of the Southern Pacific Company on Alameda street from College street to East Fifteenth street, inclusive, in the city of Los Angeles.

(2) That neither the present nor future public convenience and necessity require or will require the construction or extension of new or existing main lines of railroad in the city of Los Angeles, as described in Application No. 3346 and in the record adduced herein.

(3) That the present and future public convenience and necessity require and will require (a) the extension by defendants in Cases Nos. 970, 971, 972, 974, 980, 981 and 983 of their main lines of steam railroad in the city of Los Angeles, so as to reach and properly serve a union passenger station and terminal within that portion of said city bounded by Commercial street, North Main street, Redondo street, Alhambra avenue, and the Los Angeles River, which they or any of them may construct and establish in accordance with our order herein, and (b) the extension of their respective main lines so as properly to provide for the rearrangement of passenger and freight routes incidental to the convenient and proper operation of such union passenger station and terminal.

(4) That the extensions referred to in the preceding paragraph are reasonably required in the interest of the public convenience and necessity, and that in our opinion the expense involved therein will not impair the ability of defendants to perform their respective duties to the public.

(5) That, in addition to the abandonment of service on Alameda street as above authorized, the present and future public convenience and necessity permit the abandonment by defendants of such portions of their respective main lines of steam railroad in the city of Los

Angeles, or of the operation of all or any portion of the present train service thereon, as may be incidental to the rearrangement of passenger and freight routes, of tracks, and of terminal facilities, made necessary or proper in connection with the construction and establishment by defendants, in accordance with our order herein, of a union passenger station and terminal within that portion of said city described in paragraph three (3) above.

(6) That the use by any defendant steam carriers of so much of the terminal main-line track or tracks of any of the other defendant steam carriers in the city of Los Angeles as may be incidental, and necessary or convenient, to the proper operation of any such union passenger station as defendants or any of them, in accordance with our order herein, may construct and establish in that portion of said city described in paragraph three (3) above is in the public interest, and is practicable, without, in our opinion, impairing the ability of the carrier or carriers owning or entitled to the enjoyment of such track or tracks to handle its or their own business.

(7) That the present and future public convenience and necessity require and will require the construction by defendants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company and the Los Angeles and Salt Lake Railroad Company, and each of them, of a union passenger station within that portion of the city of Los Angeles described in paragraph three (3) above, together with such tracks, connections, and all other terminal facilities and additions, improvements or changes in the existing railroad facilities of said defendants as may be reasonably necessary, convenient or incidental to the use of said union passenger station.

(8) That, in our opinion, an adequate union passenger station can be constructed within the said described portion of said city at a cost of approximately ten millions of dollars, in substantial compliance with the plan outlined in Commission's Exhibit No. 4-b herein, which said plan is hereby found to be in all essential respects similar to that certain plan for a union passenger station in said area considered by the Interstate Commerce Commission to be in the public interest in its order and decision of July 6, 1925, in its Docket No. 14778, to which reference has been made hereinabove.

(9) That said plan for a union passenger station in said portion of said city, in our opinion, is and would be in the public interest and that its construction is practicable, without, in our opinion, impairing the ability of these carriers to perform their respective duties to the public.

(10) That said construction ought reasonably to be made. Wherefore,

It is hereby ordered:

(1) That the defendants, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, and the Los Angeles and Salt Lake Railroad Company, and each of them, proceed to construct and thereafter operate a union passenger station within that portion of the city of Los Angeles bounded by Commercial street, North Main street, Redondo street, Alhambra avenue and the Los Angeles River, together with such tracks, connections, and all other terminal facilities and additions, extensions, improvements and changes in the existing railroad facilities of said Companies as may be reasonably necessary and incidental to the use of said union passenger station, at a cost of approximately ten million dollars, in substantial compliance with the plan outlined in Commission's Exhibit 4-b herein.

(2) Work upon the construction of said union passenger station shall commence within ninety days after the effective date of this order, and shall be completed within three years after said date.

(3) Upon and after the construction of said union passenger station the operation by defendant Southern Pacific Company of passenger and freight train service, excepting only industrial freight-switching service during hours hereinafter to be prescribed by proper authority, over that portion of its railroad between College street and East Fifteenth street, inclusive, in the city of Los Angeles, shall be abandoned and discontinued.

This above order shall be and become effective from and after the promulgation by the Interstate Commerce Commission of an order issuing and granting proper and sufficient certificates or other appropriate order or orders covering and authorizing the construction, extensions and abandonments herein authorized or directed, it being the intent of this Commission that the issuance of such certificates or other order or orders on the part of the Interstate Commerce Commission shall be and constitute a condition precedent to the effectiveness of the said order of this Commission. To which end,

It is hereby further ordered, that the attorney of this Commission forthwith file with the Interstate Commerce Commission a copy of this order, together with such appropriate petition or application as may be necessary in the premises, requesting and praying that the Interstate Commerce Commission issue such certificates or other appropriate order or orders as may be requisite or proper in order to render this order effective.

The Railroad Commission reserves the right to make such further order or orders in these proceedings relating to the construction, operation, modification and abandonment of facilities, to costs and division of costs, and to all other matters relating thereto, as may be deter-

mined by the Commission to be just and reasonable and as public safety, convenience and necessity may require.

It is hereby further ordered, that Application No. 3346, as above entitled, be and the same is hereby dismissed.

Dated at San Francisco, California, this eighth day of July, 1927.

DECISION No. 18594.

IN THE MATTER OF THE APPLICATION OF SOUTH COAST GAS COMPANY, A CORPORATION, FOR A PERMIT TO EXERCISE FRANCHISE RIGHTS, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AND FOR A PERMIT TO SELL ITS STOCK.

Application No. 13871.

Decided July 8, 1927.

CERTIFICATE—GAS UTILITY—To EXERCISE—STOCK—To SELL.—Certificate granted applicant to exercise franchise privileges to operate a gas plant in the city of Oceanside. Applicant authorized to issue and sell at not less than par \$50,000 of common capital stock, and \$63,500 of 7 per cent cumulative preferred stock, and to assume payment of a note for \$2,000, bearing interest at the rate of 7 per cent per annum on account of property to be acquired.

RATES—GROSS—NET.—Gross and net rates fixed for the service of gas, net rates applicable to all bills paid on or before tenth of month next following date of bill.

George L. Hampton, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding, filed on July 17th, South Coast Gas Company asks the Railroad Commission to make an order:

(a) Declaring that public convenience and necessity require and will require applicant to exercise the rights and privileges granted by Ordinance No. 312 of the city of Oceanside, and to construct, maintain and operate an artificial gas plant at Oceanside; and

(b) Authorizing the company to issue \$50,000 par value of common, and \$80,000 par value of 7 per cent cumulative preferred stock; and

(c) Authorizing the company to sell such stock at par for cash and use 20 per cent of the proceeds to pay the cost of selling the stock and the balance to acquire and construct the gas plant referred to in this application; and

(d) Permitting the company to charge the rates referred to herein.

By Decision No. 18391, dated May 25, 1927, the Commission denied without prejudice Application No. 13724 in which South Coast Gas Company asked permission to exercise the rights and privileges granted by Ordinance No. 312 of the city of Oceanside and to construct, maintain and operate the artificial gas plant at Oceanside, and to issue \$185,000 of stock to finance the cost of such plant.

The Commission denied Application No. 13724 for the reason, among others, that the company had entered into a contract for the construction of its proposed plant at a cost of \$127,500, whereas the plant, in the opinion of the Commission, should not cost more than \$71,515.

In its decision the Commission says:

"While our action in this matter may result in a delay in the construction of a gas plant at Oceanside, it does not mean that the Commission will not authorize the construction of such a plant at that place, provided a reasonable proposition is submitted. The view that we take of this matter makes it unnecessary to comment on applicant's other proposed expenditures, its rates or stock issue, other than what has been said about the provisions of this ordinance by incorporation."

It appears that applicant has amended its articles of incorporation. They provide for an authorized stock issue of \$200,000 divided into 1000 shares of common and 1000 shares of preferred, each of the par value of \$100 per share. Under the company's articles of incorporation the holders of preferred stock are entitled to receive, and the corporation shall be bound to pay, out of any and all surplus or profits, whenever ascertained, cumulative dividends at the rate of 7 per cent per annum, payable annually, before any dividend shall be declared on the common stock; that no dividend upon the common stock shall ever be declared or paid until all cumulated dividends on the preferred stock have been paid. The preferred stock may be redeemed at the option of the company at \$105 per share plus accumulated dividends. In the event of the sale of the corporation's properties or of its liquidation, either by dissolution or otherwise, the holders of the preferred stock shall be entitled to participate in the distribution of the assets of the corporation, and the holders of the common stock shall not participate in the distribution thereof until the holders of the preferred stock shall have been paid \$100 plus all cumulated dividends for each share of stock so held.

In this proceeding the company asks permission to issue \$50,000 of common and \$80,000 of 7 per cent cumulative preferred stock to pay for the gas plant and appurtenances which it intends to construct.

The company reports cost of its proposed gas plant and appurtenances at \$104,000, as compared with an estimated cost of \$145,000 reported in Application No. 13724. The \$104,000 is made up of the following items:

Cost of construction as per contract between applicant and one E. A. MacGillivray, a copy of which is filed as Exhibit "I"-----	\$79,500 00
Material for 200 additional services-----	1,000 00
Purchase of real property-----	6,000 00
Engineering and legal expenses incurred in the formation and completion of plant distributing system-----	3,000 00
Labor for installing 700 services at \$2 per service-----	1,400 00
Franchise -----	25 00
Organization expenses-----	1,475 00
Working capital-----	11,600 00
Total -----	\$104,000 00

The contract between applicant and E. A. MacGillivray, dated June 6, 1927, provides that it is subject to the approval of the Railroad Commission. It is not customary for the Commission to approve construction contracts of a nature such as that filed in this proceeding as Exhibit "I." We might state, however, that assuming that the contractor will build a plant such as represented, the cost of \$79,500 appears reasonable. The contract provides that the \$79,500 shall be paid as follows:

\$35,000 00 as soon as corporate funds are available.

14,834 00 when material going into the plant and ground is delivered at Oceanside.

14,833 00 when the contract is completed; and the balance

14,833 00 at thirty days after completion.

The record shows that lots 1, 2, 3 and 4 of block 47, Bryan's addition to the city of Oceanside, county of San Diego, shown by map 219, filed and recorded in the office of the county recorder of said county, March 10, 1887, have been acquired by Curtis E. Flint and that he has agreed to transfer such lots to applicant for \$4,000 cash and the assumption by applicant of a \$2,000 7 per cent note secured by a trust deed which is a lien on said property. We believe that said lots should be transferred to applicant for an aggregate consideration of not exceeding \$4,500. The order herein will permit the company to pay \$2,500 in cash and assume the payment of the \$2,000 note.

Applicant estimates its organization, engineering and legal expenses at \$4,475. For working capital it desires an allowance of \$11,600. In our opinion the organization expenses, engineering and legal expenses should not exceed \$2,500, while an allowance of \$7,500 for working capital, we feel, is ample. Giving effect to the adjustments, the estimated cost of applicant's plan is reduced from \$104,000 to \$96,425.

The company asks permission to expend 20 per cent of the proceeds realized from the sale of its stock to pay the cost of selling the same, including commissions and other expenses. Such an allowance, we feel, is excessive in this instance. The order herein will allow 15 per cent of the par value of the stock sold. It will further allow the issue of \$50,000 of common and \$63,500 of the preferred stock to finance the acquisition and construction of applicant's properties. The proceeds other than the 15 per cent shall be deposited in a bank or banks and expended from time to time, as permitted by supplemental orders. When applicant desires to withdraw any of the moneys on deposit, it should file a supplemental application herein, setting forth in detail the cost of the properties to be paid through such withdrawals.

The testimony shows that Oceanside has a population of about 4,000. There is at this time no other public utility selling gas in Oceanside. Both the chamber of commerce and the board of trustees urge the granting of this application. Representatives of applicant believe that

at the end of the first year it will have 300 consumers and that ultimately it should have 700 consumers. It proposes to charge the following rates:

		<i>Gross</i>	<i>Net</i>	
First	500 cu. ft. (minimum)-----	\$1 60	\$1 50	
Next	4,500 cu. ft.-----	2 10	2 00	per 1000 cu. ft.
Next	5,000 cu. ft.-----	1 75	1 65	per 1000 cu. ft.
Next	10,000 cu. ft.-----	1 40	1 30	per 1000 cu. ft.
Next	20,000 cu. ft.-----	1 30	1 20	per 1000 cu. ft.
All over	40,000 cu. ft.-----	1 05	1 00	per 1000 cu. ft.

Net rates to apply to all bills paid on or before the tenth of the month next following date of bill.

ORDER.

South Coast Gas Company having requested permission to perform the acts referred to in the foregoing opinion, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that said company should be permitted to issue not exceeding \$113,500 par value of stock, and that the money, property or labor to be procured or paid for by the issue of such stock is reasonably required by applicant, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that the company should be permitted to exercise the rights and privileges granted by Ordinance No. 312 of the city of Oceanside and charge the rates referred to in this order, and that this application should be granted as herein provided; therefore,

The Railroad Commission hereby declares that public convenience and necessity require and will require South Coast Gas Company to exercise the rights and privileges granted by Ordinance No. 312 of the city of Oceanside and to construct and operate the gas plant referred to herein, provided that South Coast Gas Company shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors declaring that South Coast Gas Company, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for said rights and privileges in excess of the amount actually paid to the city of Oceanside as the consideration for the grant of such franchise, which amount is represented by the South Coast Gas Company to have been \$25, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation has been filed in form satisfactory to the Railroad Commission.

It is hereby ordered, that the South Coast Gas Company be and it is hereby authorized to issue and sell for cash, at not less than par, on or before December 31, 1927, \$50,000 par value of its common capital stock and \$63,500 par value of its 7 per cent cumulative preferred stock and expend of the proceeds, if necessary, an amount not exceeding

15 per cent of the par value of the stock sold to pay the cost of selling said stock, including commissions and all other expenses incident to such sale. The remainder of the proceeds and such portion of the 15 per cent not needed for the purposes mentioned shall be deposited with a bank or banks and expended only for such purposes as the Commission will hereafter authorize by supplemental order or orders, it being understood that said proceeds will be used to pay the cost of acquiring and constructing the gas plant referred to in the foregoing opinion, provided that \$2,500 of said proceeds may be forthwith paid to Curtis E. Flint, as payment for the real property referred to in the foregoing opinion and which he has agreed to transfer to applicant.

It is hereby further ordered, that South Coast Gas Company may assume the payment of the \$2,000 7 per cent note secured by a trust deed which is a lien on the property which it intends to acquire from Curtis E. Flint.

It is hereby further ordered, that the South Coast Gas Company be and it is hereby directed to file with the Railroad Commission the following schedule of rates:

			<i>Gross</i>	<i>Net</i>	
First	500 cu. ft.	(minimum)-----	\$1 60	\$1 50	
Next	4,500 cu. ft.	-----	2 10	2 00	per 1000 cu. ft.
Next	5,000 cu. ft.	-----	1 75	1 65	per 1000 cu. ft.
Next	10,000 cu. ft.	-----	1 40	1 30	per 1000 cu. ft.
Next	20,000 cu. ft.	-----	1 30	1 20	per 1000 cu. ft.
All over	40,000 cu. ft.	-----	1 05	1 00	per 1000 cu. ft.

Net rates to apply to all bills paid on or before the tenth of the month next following date of bill.

The company shall also file rules and regulations to govern its relations with consumers.

It is hereby further ordered, that this application in so far as it involves the issue of \$16,500 of preferred stock be and the same is hereby dismissed without prejudice.

It is hereby further ordered, that the authority herein granted shall become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and that South Coast Gas Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this eighth day of July, 1927.

DECISION No. 18596.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, AN ELECTRICAL CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ONE MILLION TWO HUNDRED EIGHTEEN THOUSAND NINE HUNDRED DOLLARS PAR VALUE FIRST AND REFUNDING MORTGAGE BONDS.

Application No. 13855.

Decided July 8, 1927.

SECURITIES—BONDS—To ISSUE AND SELL.—Application granted.

P. R. Ferguson, for Applicant.

By THE COMMISSION.

OPINION.

The Southern Sierras Power Company has applied to the Railroad Commission for an order authorizing it to issue and sell its first and refunding mortgage bonds in the face amount of \$1,218,900 at a price of not less than 88 per cent of face value, and to use the proceeds for the acquisition of property, for the construction, completion, extension or improvement of its facilities, for the improvement or betterment of its service, for the discharge or lawful refunding of outstanding obligations and for the purpose of reimbursing it for moneys actually expended from income or for other moneys actually expended from its treasury, not secured by or obtained from the issue of stock or stock certificates, bonds, notes or other evidence of indebtedness.

In making its application the company has filed a financial statement which shows its assets and liabilities, as of April 30, 1927, as follows:

<i>Assets.</i>		
Investment in fixed capital.....		\$15,636,195 55
Current assets—		
Cash	\$92,792 14	
Notes receivable	15,314 90	
Accounts receivable	491,304 94	
Materials and supplies	776,196 39	
Other	7,772 64	
		1,383,381 01
Sinking funds		170,165 00
Unamortized debt discount and expense.....		984,882 26
Prepayments		56,469 91
Miscellaneous deferred debits.....		101,983 35
Discount on capital stock.....		4,995,350 00
Total assets.....		\$23,328,427 08

<i>Liabilities.</i>		
Capital stock—common		\$5,000,000 00
Bonded debt		11,172,000 00
Current assets—		
Notes payable	\$4,185 00	
Accounts payable	4,142,646 31	
Consumers' deposits	30,724 52	

Accruals -----	\$250,938 39	
Miscellaneous -----	1,591 74	
		\$4,430,085 96
Consumers' advances for construction -----		137,276 46
Miscellaneous deferred credits -----		1,016 02
Reserves—		
Depreciation -----	\$1,537,598 43	
Casualty and insurance -----	10,050 66	
Operating and miscellaneous -----	132,300 33	
Sinking fund -----	472,950 00	
		2,152,899 42
Liability in connection with bonds called for redemption -----		169,575 00
Unappropriated surplus -----		265,574 22
Total liabilities -----		\$23,328,427 08

To support the present request to issue \$1,218,900 of additional bonds, applicant reports that during the period from January 1, 1926, to December 31, 1926, inclusive, it expended for additions to its assets and properties the sum of \$1,718,327.37 as shown in detail in its Exhibit "B." From this amount it deducts \$284,264.37, representing retirements, leaving net additions of \$1,434,063, against which applicant reports no stock or bonds have been issued.

The company now asks permission to issue bonds up to 85 per cent of the total net additions and to use the proceeds for the purposes indicated above. The testimony herein indicates, however, that substantially all the proceeds will be used to pay indebtedness due Nevada California Electric Corporation, which is reported at \$3,576,876.44, exclusive of accrued interest, although a portion of the proceeds may be used for one or more of the other purposes specified. We have considered this request and believe that the amount of proceeds that may be used to reimburse the treasury should be limited to the amount of applicant's unappropriated corporate surplus.

The \$1,218,900 of bonds are to be issued under the terms of its first and refunding mortgage. This mortgage is of the open-end type and secures the payment of 6 per cent bonds, dated as of January 1, 1915, and due January 1, 1965. Although the bonds are designated first and refunding mortgage bonds, applicant has retired the underlying issues so that the bonds, in effect, are a first lien against the company's properties.

Applicant asks permission to sell the \$1,218,900 of bonds at not less than 88 per cent of their par value and accrued interest. At the minimum price requested the effective interest rate on the bonds will be about 6.90 per cent. We will not authorize the issue of the bonds on such a basis. The price at which bonds of other companies engaged in the electric light and power business in California, selling in the open market, is common knowledge. The outstanding bonds, of applicant, however, are all owned by Nevada California Electric Corporation. The additional bonds which applicant proposes to issue will, it

is said, also be purchased by the same company. We believe that such company should pay for the bonds of applicant a price which we feel applicant could obtain in the open market. After considering the value of applicant's properties, its earnings, and the prices which other public utilities of California are receiving for bonds, we have concluded that applicant should sell its bonds on a 5½ per cent basis or better.

ORDER.

The Southern Sierras Power Company having applied to the Railroad Commission for permission to issue bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that The Southern Sierras Power Company be and it hereby is authorized to issue and sell, on or before December 31, 1927, on a basis of 5½ per cent or better, plus accrued interest, \$1,218,900 of its first and refunding mortgage bonds, and to use the proceeds (other than accrued interest which may be used for general corporate purposes) for the purpose of paying outstanding indebtedness, of reimbursing its treasury on account of surplus earnings invested in properties and of financing the cost of the acquisition of property and of the construction, completion, extension or improvement of its facilities and for the improvement or betterment of its service.

The authority herein granted is subject to the following conditions:

1. Only such expenditures as are properly chargeable to fixed capital accounts as defined by the uniform system of accounts prescribed by this Commission may be financed with proceeds obtained from the sale of the bonds herein authorized to be issued.
2. The amount of proceeds to be used to reimburse the treasury, under the authority herein granted, shall not exceed the sum of \$265,574.22.
3. Applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.
4. The authority herein granted shall become effective when appli-

cant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,109.50.

Dated at San Francisco, California, this eighth day of July, 1927.

DECISION No. 18601.

IN THE MATTER OF THE APPLICATION OF BALDWIN PARK DOMESTIC WATER COMPANY, A CORPORATION, FOR AUTHORITY TO SELL ITS SYSTEM TO BALDWIN PARK COUNTY WATER DISTRICT, A CORPORATION.

Application No. 13591.

Decided July 8, 1927.

TRANSFER—WATER UTILITY—To SELL.—Baldwin Park Domestic Water Company authorized to transfer its properties to Baldwin Park County Water District.

James E. Barker, for Applicants.

BY THE COMMISSION.

OPINION.

Baldwin Park Domestic Water Company, a corporation, operating a public utility water system supplying water to consumers residing in and in the vicinity of Baldwin Park, Los Angeles County, has made application to this Commission for authority to transfer its water plant to Baldwin Park County Water District, a corporation.

A public hearing in this matter was held before Examiner Williams after all interested parties had been duly notified and given an opportunity to be present and be heard.

The evidence shows that Baldwin Park County Water District is duly organized and exists under and by virtue of the California County Water District Act, Number 9124, Statutes of 1913, and amendments thereto, and, as such, has entered into an agreement with the Baldwin Park Domestic Water Company for the purchase of its system for a consideration of \$167,500 for the property as it existed on October 1, 1926, subject to adjustment for subsequent changes to date of acquisition.

The testimony shows that an election has been held at which the people of this district have approved a bond issue amounting to \$225,000 for the purpose of acquiring the properties of applicant and installing certain improvements thereto. All consumers now served by this utility are within the exterior boundaries of the district and will continue to receive water from the purchasers. Applicant has agreed to make provision for the refunding of any and all deposits which may be due consumers for main extensions, meter and/or service connections, and/or any other purposes.

No one appeared to protest the granting of the application and, as it appears from the evidence that the consumers of this utility will be

assured a more adequate and dependable water supply at lesser rates through operation by the district, we are of the opinion that the transfer should be granted.

ORDER.

Baldwin Park Domestic Water Company, a corporation, having made application to this Commission for authority to transfer its public utility water system to the Baldwin Park County Water District, a corporation, a public hearing having been held thereon, the matter having been submitted and the Commission now being fully informed thereon;

It is hereby ordered, that Baldwin Park Domestic Water Company, a corporation, be and it is hereby authorized to transfer to the Baldwin Park County Water District, a corporation, its lands, properties, rights and/or interests, substantially in accordance with the terms and provisions of the agreements attached as exhibits to the application herein and which are hereby referred to and made a part of this order by reference, subject to the following conditions:

1. The transfer herein granted shall apply only to such transfer as shall have been completed on or before September 30, 1927, and a certified copy of the final instrument of conveyance shall be filed with this Commission by said Baldwin Park Domestic Water Company within thirty days from the date on which it is executed.

2. Within ten days from the date on which Baldwin Park Domestic Water Company actually relinquishes control and possession of the property herein authorized to be transferred, it shall file with this Commission a certified statement indicating the date upon which such control and possession was relinquished.

3. On or before August 31, 1927, Baldwin Park Domestic Water Company shall refund all amounts due consumers for deposits made for main extensions, meter and/or service connections, and/or any other purposes.

4. Within ten days from the date of this order, Baldwin Park Domestic Water Company shall cause to be published at least three times in a newspaper, published in or in the vicinity of Baldwin Park and of general circulation in the territory served, a notice to the effect that said company will pay on or before August 31, 1927, to all consumers entitled thereto the amounts of unpaid deposits made by its consumers for water service. Said notice should further request all consumers having claims for unpaid deposits to present such claims at the office of the company as soon as possible.

5. A verified statement that the conditions of paragraphs three and four above have been complied with shall be filed with this Commission by Baldwin Park Domestic Water Company on or before August 31, 1927, and compliance with the conditions of paragraphs three and

four and the filing of such a statement of compliance within the time specified shall be conditions precedent to the effectiveness of any transfer made under this order.

6. Within ten days from the date of this order, Baldwin Park Domestic Water Company shall file with this Commission a statement showing the name and address of each consumer entitled to refund of deposit on the date of this order, the amount and date of the original deposit and all refunds, if any, heretofore paid. Thereafter, a monthly statement as of the first day of the month shall be filed with this Commission to and including September 1, 1927, setting forth the name and address of each consumer to whom refund has been made, the date and the amount thereof and the basis of settlement.

The authority granted herein shall become effective on the date hereof.

Dated at San Francisco, California, this eighth day of July, 1927.

DECISION No. 18606.

IN THE MATTER OF THE APPLICATION OF UPPER LAKE FARMERS
TELEPHONE ASSOCIATION FOR PERMISSION TO INCREASE
SUBSCRIBERS' DUES THREE DOLLARS PER ANNUM.

Application No. 13501.

Decided July 11, 1927.

RATES—TELEPHONE UTILITY—TO INCREASE—EXCHANGE AREA.—Subscribers' rate increase from \$1.50 per quarter to \$2.25 per quarter per station. Exchange area defined.

R. H. Polk, for Applicant.

BY THE COMMISSION.

OPINION.

Upper Lake Farmers Telephone Association, unincorporated, applicant in this proceeding, asks authority to increase its rate for telephone switching service by an amount equivalent to \$3 per annum.

A public hearing was held in this matter before Examiner Geary in Upper Lake on June 1, 1927.

Applicant owns and operates a telephone switchboard located in the town of Upper Lake, Lake County, by means of which it provides switching service between local lines in Upper Lake and vicinity and between these local lines and toll and trunk telephone lines. Applicant also owns central office telephones and has part ownership in a trunk line connecting its Upper Lake switchboard with the facilities of the Lakeport and Blue Lakes Telephone Association in Lakeport, Lake County. All subscriber-facilities, including poles, wires and telephone instruments, are owned by subscribers.

Witnesses for applicant, at the hearing, presented general information concerning applicant's operations with respect to its revenue and

expenses and the value of its telephone properties. This information purported to show that the revenue received by applicant was insufficient to meet its obligations and that it had been necessary to levy an assessment on its members in order to make possible a continuance of operations. It was stated that the original cost of the property was about \$400. F. M. Casal, assistant engineer of the Railroad Commission's staff, who had made an examination of applicant's records and an appraisal of its properties, testified at the hearing as to his findings and estimates. He estimated applicant's total revenue for the year period, May 1, 1926, to April 30, 1927, to be \$1,081 and expenses for the same period to be \$1,299. Mr. Casal estimated the historical reproduction cost, undepreciated, of applicant's property to be \$685 as of January 1, 1923. Applicant's witnesses indicated that no additions or betterments had been made to its plant since January 1, 1923, and that an appraisal as of that date might properly be used as a measure of the present value of applicant's system. A rate base of \$825, including an allowance for working cash and materials and supplies, is found reasonable for this proceeding.

Applicant's schedule of rates for telephone service includes a subscribers' rate of \$1.50 per quarter per connected telephone station and a charge of 10 cents per message for service to nonsubscribers at applicant's central office pay station. It is proposed to increase the subscribers' rate to \$2.25 per quarter per station. Applicant has no toll revenue accruing from the use of its own line by its subscribers as the line is used by subscribers without additional charge. The only other source of applicant's revenue is the commission paid to it by the connecting toll company in consideration of switching the lines of the latter, and which was \$338 of the total revenue of \$1,081 above shown.

Applicant has paid no taxes in the past, although it appears that this is an obligation which it may have to meet in the future and, making allowances for taxes and uncollectible accounts, its income statement for the period May 1, 1927, to April 30, 1928, is estimated as follows:

<i>Revenue.</i>	
Subscribers' stations -----	\$1,089 00
Local messages -----	20 00
Toll commissions -----	340 00
Total -----	\$1,449 00
<i>Expenses.</i>	
Operating expenses -----	\$1,300 00
Taxes -----	80 00
Uncollectibles -----	7 00
Total -----	\$1,387 00
Net for return -----	\$62 00

No objection to an increase in rates for telephone service was raised at the hearing in this matter and it is our opinion that the petition in this proceeding is reasonable and should be granted as made.

Applicant has not heretofore filed a map showing the territory in matter of record and the order following will provide for the filing which it renders exchange telephone service. This should be made a with this Commission of a map of the territory served, based on the description of the service area read into the record at the hearing by Mr. Casal.

ORDER.

Upper Lake Farmers Telephone Association having petitioned the Railroad Commission for authority to increase its rate for telephone switching service, a public hearing having been held, and the matter having been submitted and ready for decision;

The Railroad Commission hereby finds as a fact that the switching rate at present in effect by Upper Lake Farmers Telephone Association is inadequate, unjust and unreasonable, and that the rate for this service contained in this order for the conditions of operation of this utility is just and reasonable.

Basing its order on the foregoing finding of fact and other findings and statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Upper Lake Farmers Telephone Association shall:

(1) Charge and collect the rates for exchange telephone service set forth in Exhibit "A," attached hereto, for service rendered on and after October 1, 1927.

(2) File with the Railroad Commission on or before September 1, 1927, the rates set forth in Exhibit "A," attached hereto.

(3) File with the Railroad Commission on or before September 1, 1927, a map showing its service area as shown on Exhibit "B," attached hereto.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this eleventh day of July, 1927.

EXHIBIT "A."

EXCHANGE RATES.

EXCHANGE SERVICE SCHEDULE NO. A-1—UPPER LAKE.

Switching Service.

Applicable to switching service rendered by facilities at Upper Lake to subscribers' stations located within the territory served:

Rate.

Rate per quarter
per station.
Business or resi-
dence service.

Switching service-----\$2 25

Conditions.

(1) The Upper Lake Farmers Telephone Association installs, owns and maintains at its expense the necessary central office equipment and service and line facilities from the switchboard to the office pole.

(2) The subscriber installs, owns and maintains at his expense the necessary facilities from the association's line at the office pole to the subscriber's instrument, also the complete instrument and battery.

(3) Quarterly bills for exchange switching service are due and payable in advance, on the first day of January, April, July and October of each year.

(4) Service to Lakeport over jointly owned trunk line is furnished for no additional charge to subscribers paying the above rate.

EXCHANGE SERVICE SCHEDULE NO. A-2—UPPER LAKE.*Public Pay Station Service.*

Service from association's public telephone stations:

Rate.

Each local message, including messages to Lakeport over trunk line owned jointly by the association----- \$0 10

Conditions.

Public telephones will be installed by the association, at its discretion, in public locations, to meet the general and transient telephone requirements.

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DECISION No. 18607.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL FOUR HUNDRED THOUSAND (400,000) SHARES OF ITS PREFERRED STOCK, SERIES "C," FIVE AND ONE-HALF PER CENT.

Application No. 13907.

Decided July 13, 1927.

SECURITIES—PREFERRED STOCK—To SELL.—Applicant authorized to issue and sell, at not less than \$23.50 per share, 400,000 shares of preferred stock, Series "C," 5½ per cent, of an aggregate par value of \$10,000,000, and to use not exceeding \$1 per share to pay expenses of selling same, and to use balance of the proceeds for extensions, betterments and additions to its plants and properties.

Roy V. Reppy, for Applicant.

Gail O. Larkin, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled matter the Railroad Commission is asked to authorize Southern California Edison Company to issue and sell, at not less than \$23.50 per share, 400,000 shares of its Series "C" 5½ per cent preferred stock, of the aggregate par value of \$10,000,000, for the purpose of financing the cost of extensions, additions and betterments to its system.

The record shows that the Southern California Edison Company has an authorized capital stock issue of \$250,000,000, divided into 10,000,000 shares of the par value of \$25 each. The following tabulation shows the various classes into which its authorized stock is segregated and the amount of which is outstanding on May 31, 1927:

<i>Class of stock</i>	<i>Authorized</i>	<i>Outstanding</i>
Original preferred -----	\$4,000,000 00	\$4,000,000 00
Preferred Series "A," 7 per cent.-----	30,000,000 00	25,537,700 00
Preferred Series "B"-----	50,000,000 00	40,630,200 00
Preferred Series "C," 5½ per cent.-----	20,000,000 00	
Preferred Series "D," 5 per cent.-----	21,000,000 00	
Common -----	125,000,000 00	56,991,775 00
	<u>\$250,000,000 00</u>	<u>\$127,159,675 00</u>

In addition, the company reports as of the same date \$3,371,175 of preferred Series "A" and Series "B" and \$3,279,300 of common stock subscribed but not yet issued, making a total issued or subscribed stock of \$133,810,015 as of May 31, 1927. This amount, however, includes \$10,836,628 of common stock held by Pacific Light and Power Corporation and controlled by applicant through stock ownership.

The testimony shows that the company is in need of additional funds to pay in part the cost of extensions, additions and betterments installed or to be installed during the remainder of the current year. In Exhibit No. 6 it reports construction expenditures against which no securities

have been issued as of May 31, 1927, in the sum of \$1,869,742.01. In arriving at this amount it took into consideration its construction expenditures to May 31, 1927, and the proceeds from sale of securities to June 30, 1927. For the seven months ending December 31, 1927, applicant in Exhibit No. 7 reports actual and estimated construction expenditures of \$28,200,000. The details of these expenditures are set forth in the company's 1927 budget filed as Exhibit No. 4 in Application No. 13438. The testimony shows that the company on July 2d had about \$2,500,000 of cash on hand available for construction purposes and that it would be able to collect about \$500,000 from the sale of common stock and \$2,000,000 from the sale of 6 per cent preferred stock, the issue of which the Commission heretofore authorized. To obtain additional funds the company asks permission to issue \$10,000,000 (400,000 shares) of Series "C" 5½ per cent preferred stock.

Applicant asks permission to consolidate the proceeds obtained from the sale of the \$10,000,000 of 5½ per cent preferred stock with the proceeds from the sale of all other stock, both common and preferred, heretofore authorized by the Commission to be issued and sold, and use such proceeds to finance the extensions, betterments and additions referred to herein. This request will be granted.

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue \$10,000,000 of stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue of stock is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted as herein provided; therefore,

It is hereby ordered, that Southern California Edison Company be and it is hereby authorized to issue and sell on or before December 31, 1927, at not less than \$23.50 per share, 400,000 shares of its preferred stock, Series "C" 5½ per cent, of the aggregate par value of \$10,000,000.

It is hereby further ordered, that the Southern California Edison Company be and it is hereby authorized to use an amount of the proceeds from the sale of the stock herein authorized not exceeding \$1 per share of stock sold to pay commissions and expenses incident to the sale of such stock, and to consolidate the remaining proceeds and such portion of the \$1 not needed for commissions and expenses incident to the sale of the stock, with the proceeds received or to be received from the sale of stock heretofore authorized to be issued, and to use such consolidated proceeds to finance in part such cost of the extensions,

betterments and additions referred to in Exhibit No. 6 and Exhibit No. 7, as are properly chargeable to fixed capital account under the uniform system of accounts prescribed or adopted by the Railroad Commission.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof, and that Southern California Edison Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18609.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION, FOR AUTHORITY TO REDUCE ITS TRAIN SERVICE BETWEEN KRAMER AND JOHANNESBURG, CALIFORNIA.

Application No. 13684.

Decided July 13, 1927.

SERVICE—STEAM RAILROAD—To REDUCE.—Applicant authorized to substitute two schedules weekly between Kramer and Johannesburg, in place of three schedules per week, on and after August 1, 1927.

E. T. Luccy, for Applicant.

A. V. Udelh, for Protestants.

BY THE COMMISSION.

OPINION.

The Atchison, Topeka and Santa Fe Railway Company, a corporation, has applied to the Railroad Commission for authority to discontinue a portion of its service over its branch line between Kramer and Johannesburg.

A public hearing herein was conducted by Examiner Williams at Randsburg, at which time the matter was duly submitted and now is ready for decision.

Applicant now maintains three schedules weekly over its branch line between Kramer and Johannesburg, the operation being conducted by a mixed passenger and freight train made up at Barstow and operated through to Johannesburg. This train gives some minor service between Barstow and Kramer. It is proposed to reduce this service from thrice weekly to twice weekly, and applicant urges, as a reason therefor, a general decline in business, resulting in operating losses, with a consequent need for the exercise of economy in meeting the requirements of

shippers and consignees of freight at Johannesburg and Atolia. The schedule now maintained calls for service on Mondays, Wednesdays and Fridays. By stipulation with the shippers present at the hearing, applicant agreed to give this service on Wednesdays and Saturdays if the Commission should find that the service should be reduced.

In support of the application, applicant presented the testimony of C. G. Fluhr, its division superintendent at Barstow. Mr. Fluhr testified that each trip made by this special service between Kramer and Johannesburg, without allocation of overhead, taxes or other items, costs \$100.59. The mileage chargeable to the branch line is 28.5 miles. Mr. Fluhr testified that the same service to shippers could be maintained by two services; that the only shipper requiring, possibly, more frequent service is the Atolia Mining Company, which purchases ten or more cars of water from applicant for use in its mill, and that this need may be met by storing cars of water on a siding between trips, should the mining company not enlarge its own storage capacity. As to other shipments, none involve perishables, and a difference of a day or two is not important, according to this witness. Mr. Fluhr presented the following summary of movements:

<i>Forwarded</i>		<i>Received.</i>	
<i>C. L.</i>	<i>L. C. L.</i>	<i>C. L.</i>	<i>L. C. L.</i>
1926—*148 cars	130,303 lbs.	409 (a)	1,665,846 lbs.
1927—* 98 cars	117,024 lbs.	422 (a)	1,022,079 lbs.
*All ore except 6 cars.		(a) 261 cars water 1926.	
		292 cars water 1927.	
Average per trip, .7+cars.		Average per trip (less water) .9 cars.	
Average L. C. L. per trip, 792 pounds.		Average L. C. L. per trip,, 8615 pounds.	

M. D. Slayton, station agent of applicant at Johannesburg, testified that passenger tickets are sold about once each week, and John R. Evans, for four years conductor of the mixed branch line train, testified that there is an average of four passengers weekly (including cash fares) on the six movements in both directions. Evans further testified that L. C. L. freight has decreased fully 50 per cent.

An exhibit filed by permission subsequent to the hearing shows that in each month from May, 1925, to April, 1927, inclusive, there was a decrease in volume of freight, and that during the same period only one month (July, 1926) showed an increase in revenue. This exhibit shows that during the period stated, the volume of freight decreased from 23,633,937 pounds in the first twelve months, to 13,587,423 in the last twelve, a decrease of 10,046,514 pounds; also, that the revenue decreased from \$104,448.43 to \$66,175.40, a difference of \$38,273.03. While the exhibit does not show allocation of receipts and expenditures to the Johannesburg branch, inasmuch as the outbound shipments con-

sist largely of ore destined to Selby, the revenue per mile for the branch would be a very small part.

The granting of the application was protested by several shippers on the ground that the mining industry is reviving, due to the establishment of a custom ore mill at Osdick, which will enlarge the shipment of concentrates.

Henry Siegal, manager of the Rand Mercantile Company, testified that the Yellow Aster Mine (of which his company is a subsidiary) is enlarging its concentrate mill five-fold and may make further increases to mine a large quantity of low-grade ore, and that prompt shipping facilities will be required. The only shipments this mine has been making consist of bullion by express, according to Mr. Siegal's testimony. The Rand Mercantile Company also receives merchandise and implements by rail.

A. V. Udell, manager of the Atolia Mining Company, which produces sheelite (tungsten), testified that the mill requires ten or more carloads of water weekly and is wholly dependent on such shipments. The plant equipment is not able to handle more than four carloads at a time. (It was this situation that applicant offered to care for by storing cars on a siding.) This water is purchased from applicant at the rate of \$19.75 per car.

C. S. Meroney, general manager of the Rand California Silver Company at Osdick siding, testified that any reduction in service might cause loss to this company, which operates the Kelly mine. Its shipments are about five carloads of concentrates monthly to Selby when the mill is in full operation. Mr. Meroney testified that the mill shut down in October, 1926, but resumed in January, 1927, and expects soon to be on full production. Since January it has received six carloads of freight; and according to an exhibit filed, this company has paid applicant \$13,132.37 for freight since January, 1927. This protestant alone, between January 1 and May 17, paid applicant \$225 per trip on the present schedules, this payment, of course, including the long hauls beyond Kramer. Protestant's exhibit further shows that in $7\frac{1}{2}$ years the Rand silver mine has paid an average of \$139,323.56 yearly in freight bills to applicant, including long haul payments.

J. S. Mahood, garage owner at Osdick, testified that he had shipped in a carload of automobiles and expected to have further movements of automobiles, repair parts, etc.

The testimony shows that the points served by applicant also receive service by private and public trucks, some of which transport property delivered by the Southern Pacific at Searles, 12 miles west of Randsburg, and also at Rand, a nonagency station of the Southern Pacific six miles from Randsburg. A considerable proportion of the perishable commodities and much of the merchandise is thus transported.

Applicant bases its application for a reduction of service upon the continued decrease in volume of shipments handled during the last several years, and Mr. Fluhr in his testimony stated that a large proportion of the business lost by applicant is now enjoyed by trucking companies. The bulk of applicant's business is composed of shipments for the protestant shippers, and the question is whether their business is sufficient to justify continuation of a three-day service for their purposes. We are not convinced that the volume of business now being handled by applicant to and from Johannesburg over its branch line is sufficient to justify three trips weekly. In two years the volume of business and the revenues therefrom have been reduced in excess of 40 per cent, and this covers periods when all the protestant shippers and others were active.

Applicant now asks permission to reduce its service in proportion to its decreased business, and by such reduction to effect operating economies. True, these economies are not very great as to out-of-pocket cost, but if such conditions were multiplied in great number over applicant's system, it would soon represent an enormous economic waste. It is our belief that the service has been maintained for a long period in spite of adverse conditions, and that neither the present nor the prospective activity in this region justifies the service sought by protestant shippers. Their agreement that this service should be conducted on Wednesdays and Saturdays if the Commission finds that applicant should be relieved of one trip, is, in our opinion, proper under the circumstances. However, should a revival of activity take place in this region in sufficient volume to justify a return to a thrice-weekly schedule, the same will be required of applicant upon a proper showing before the Commission.

ORDER.

The Atchison, Topeka and Santa Fe Railroad Company, a corporation, having petitioned the Railroad Commission for authority to reduce its train service between Kramer and Johannesburg, a public hearing having been held, the matter having been duly submitted and now being ready for decision;

It is hereby ordered, that applicant The Atchison, Topeka and Santa Fe Railway Company, a corporation, be and the same hereby is authorized to suspend its present schedule of three operations weekly over its branch line between Kramer and Johannesburg, and to install in place thereof two schedules weekly, operating on Wednesdays and Saturdays, between Kramer and Johannesburg, a distance of approximately 28.5 miles; said authority to be effective on and after August 1, 1927.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18611.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES
GAS COMPANY OF CALIFORNIA FOR CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRAN-
CHISE RIGHTS GRANTED TO IT BY THE COUNTY OF ORANGE.

Application No. 13776.

Decided July 13, 1927.

CERTIFICATE—GAS UTILITY—FRANCHISE PRIVILEGES—To EXERCISE.—Applicant
authorized to exercise franchise granted by the county of Orange to operate a
gas transmission and distribution system to serve town of Laguna Beach.

A. F. Bridge, for Applicant.

WHITSELL, *Commissioner*.

OPINION.

This is an application by Southern Counties Gas Company of California for an order declaring that public convenience and necessity require the exercise by it of the rights and privileges of franchise granted by the county of Orange.

Public hearing was held at Santa Ana on July 25, 1927, at which time testimony was introduced and the matter submitted for decision.

Applicant has constructed and is operating a gas transmission and distribution system to serve the town of Laguna Beach, which system was installed under temporary permits.

Ordinance No. 260, passed April 19, 1927, by the board of supervisors of the county of Orange, grants applicant a franchise to install, operate and maintain gas facilities within that portion of Orange County described in the franchise. This franchise, a copy of which is attached to the application, is for a term of fifty years and carries the usual provision for a tax of 2 per cent of the gross revenue, effective five years from the date of grant.

A. F. Bridge, appearing for applicant, testified that no other company is serving gas within this portion or any other portion of Orange County, that service can be rendered without detriment to present consumers on applicant's system, and that this service is in the public interest.

Applicant will file with this Commission a stipulation duly and legally approved by resolution of its board of directors, to the effect that applicant, its successors or assigns, will never claim before the Railroad Commission or any court or public body any value for the aforementioned franchise in excess of the original cost thereof.

I recommend the following form or order:

ORDER.

Southern Counties Gas Company of California having applied to the Railroad Commission for a certificate of public convenience and

necessity authorizing the exercise by applicant of certain rights and privileges granted by the county of Orange, Ordinance No. 260, a public hearing having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby certifies and declares that public convenience and necessity require and will require the exercise by Southern Counties Gas Company of California of those rights and privileges granted by Ordinance No. 260, adopted by the board of supervisors of the county of Orange on April 19, 1927, provided that the Railroad Commission may hereafter by appropriate proceedings and orders revoke or limit, as to territory not then served by Southern Counties Gas Company, the authority herein granted, and subject to the following conditions:

That on or before August 31, 1927, Southern Counties Gas Company shall file with this Commission a stipulation duly executed upon authority of its board of directors to the effect that applicant, its successors or assigns, will never claim before the Railroad Commission or any court or public body any value for the aforesaid franchise in excess of the original cost thereof.

The authority herein granted shall be effective from and after the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18612.

IN THE MATTER OF THE APPLICATION OF PACIFIC WATER COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS FIRST MORTGAGE BONDS OF THE PAR VALUE OF ONE MILLION DOLLARS AND ITS COMMON STOCK OF THE PAR VALUE OF SIX HUNDRED THOUSAND DOLLARS AND FOR AUTHORITY TO ACQUIRE PUBLIC UTILITY PROPERTIES IN THE STATE OF CALIFORNIA.

Application No. 13799.

IN THE MATTER OF THE APPLICATION OF WILLIAM H. HOWARD ESTATE COMPANY, A CORPORATION, FOR AUTHORITY TO SELL AND CONVEY CERTAIN PROPERTIES TO THE PACIFIC WATER COMPANY.

Application No. 13800.

IN THE MATTER OF THE APPLICATION OF PENINSULA WATER COMPANY FOR AUTHORITY TO TRANSFER AND CONVEY ALL OF ITS BUSINESS ASSETS AND PROPERTIES TO PACIFIC WATER COMPANY.

Application No. 13801.

IN THE MATTER OF THE APPLICATION OF SOUTH SAN FRANCISCO WATER COMPANY, A CORPORATION, FOR AUTHORITY TO TRANS-

FER AND CONVEY ALL OF ITS BUSINESS ASSETS AND PROPERTIES TO PACIFIC WATER COMPANY.

Application No. 13814.

Decided July 13, 1927.

TRANSFER—WATER UTILITY—To SELL—SECURITIES—To ISSUE.—Pacific Water Company authorized to purchase properties of Peninsula Water Company, South San Francisco Water Company and William H. Howard Estate Company water system, and to issue not exceeding \$750,000 of 5½ per cent first mortgage bonds, and \$500,000 of common capital stock in payment therefor, and to finance additions and betterments. Application dismissed in so far as it involves the issue of \$250,000 of bonds and \$100,000 of stock.

Chickering and Gregory, by *Allen L. Chickering* and *W. C. Fox*, for Pacific Water Company and South San Francisco Water Company.

Leon E. Morris, by *Edwin F. Jaffa*, for William H. Howard Estate Company.

H. C. Ross, for Peninsula Water Company.

BY THE COMMISSION.

OPINION.

In the above entitled matters the Railroad Commission is asked to make an order authorizing Peninsula Water Company, South San Francisco Water Company and William H. Howard Estate Company to transfer and convey certain properties to the Pacific Water Company, a new corporation, and authorizing Pacific Water Company to acquire such properties, to execute a mortgage and/or deed of trust and to issue \$1,000,000 of 5½ per cent first mortgage bonds and \$600,000 of common stock for the purpose of acquiring the properties and constructing additions and betterments, to which reference will be made hereafter.

The South San Francisco Water Company is engaged in the business of supplying water for domestic, municipal and other useful purposes in South San Francisco and vicinity thereto as a public utility.

As of December 31, 1926, the company reports its assets and liabilities as follows:

<i>Assets.</i>		
Fixed capital installed prior to Jan. 1, 1913-----	\$150,489 41	
Fixed capital installed since Dec. 31, 1912-----	336,607 26	
		\$487,096 67
Cash -----		24,000 48
Due from consumers and agents-----	\$8,944 02	
Miscellaneous accounts receivable-----	70 76	
		9,014 78
Materials and supplies-----		1,588 22
Prepaid taxes -----	\$899 49	
Prepaid insurance -----	89 22	
		988 71
Construction work in progress-----		1,015 86
Total-----		\$523,794 72
<i>Liabilities.</i>		
Capital stock -----		\$150,000 00
Accounts with system corporations -----	\$117,515 41	

Consumers' deposits	\$1,202 00	
Miscellaneous accounts payable	728 55	
		\$119,445 96
Reserve for accrued depreciation		203,371 96
Federal income tax		3,246 31
Reserve for earthquake insurance		1,700 00
Corporate surplus unappropriated		46,030 49
Total		\$523,794 72

In Exhibit No. 6, introduced by F. C. Herrmann, and prepared by him and B. A. Etcheverry, consulting engineer, the taps in service during 1924 are reported at 1093, during 1925 at 1286 and for 1926 at 1341. In the same exhibit the operating revenues for 1924 are reported at \$69,936.02, for 1925 at \$67,882.73 and for 1926 at \$93,856.23. The operating expenses before depreciation for the same years are reported at \$44,583.88, \$41,452.54 and \$42,721.87, respectively. In exhibit No. 6 depreciation was calculated on a 5 per cent sinking fund basis, the annuity for 1924 being reported at \$2,897, for 1925 at \$3,246, for 1926 at \$3,595. The net revenue after the depreciation annuity for 1924 amounted to \$22,455.14, for 1925 to \$23,184.19 and 1926 to \$47,539.36.

The Peninsula Water Company is engaged in the business of supplying water for domestic, municipal and other useful purposes in San Mateo and the vicinity thereof as a public utility.

As of December 31, 1926, the company reports its assets and liabilities as follows:

Assets.

Capital assets—		
Real estate, structures and other properties, January 1, 1926	\$434,875 86	
Addition for year ended December 31, 1926	10,778 61	
		\$445,654 47
Consumers accounts receivable—		
General	8,779 96	
San Mateo Park	1,987 47	
		10,767 43
Miscellaneous accounts receivable		393 00
Cash in bank and on hand		7,449 08
Unamortized discount on stock		450,000 00
Total		\$914,263 98

Liabilities.

Capital stock (authorized \$600,000)	\$500,000 00
First mortgage bonds	207,000 00
Notes payable	35,000 00
Accounts payable	7,203 67
Taxes (accrued)	3,000 00
Consumers' advances for construction	8,132 26
Depreciation reserve	35,115 65
Uncollectible accounts reserve	782 74
Capital surplus (arising from revaluation of plant acquired)	3,840 61
Corporate surplus (App. for investment in plant)	25,563 10

Corporate surplus—

Balance January 1, 1926-----	\$71,840 58	
Net income for year ended December 31, 1926----	20,785 37	
Dividends -----	4,000 00	
		\$88,625 95
Total-----		\$914,263 98

For 1924 it reports 2465 taps in service, for 1925, 2675 and 2904 for 1926. Its operating revenues for 1924 are reported at \$81,057.68, for 1925 at \$83,389.17, for 1926 at \$102,350.93. The net revenue of the company after depreciation annuity calculated on a 5 per cent sinking fund basis is reported at \$35,111.19 for 1924, at \$31,183.34 for 1925 and at \$37,854.10 for 1926.

The William H. Howard Estate Company, according to the record, has for many years past been engaged in the distribution of water on lands owned or heretofore sold by it. The company's operating revenues from the sale of water for 1924 are reported at \$4,624.66, for 1925 at \$3,911.09 and for 1926 at \$5,612.15. The net revenue of this system, after depreciation annuity, calculated on a 5 per cent sinking fund basis, is reported at \$1,270.19, at \$630.47 for 1925 and at \$1,449.08 for 1926.

The consolidated operating revenues of the three systems for 1926 are reported at \$201,819.41 and the consolidated operating expenses before depreciation at \$106,908.97, leaving net revenue before depreciation of \$94,910.44. The depreciation annuity on a 5 per cent sinking fund basis is reported at \$8,067.80 and federal income tax at \$6,166.17. Deducting the depreciation annuity and the federal income tax from the net revenue before depreciation leaves a balance of \$80,676.47. F. C. Herrmann in Exhibit No. 6 estimates the operating revenues for 1927 at \$232,715 and the net revenue after operating expenses, depreciation and federal income tax at \$101,121.

The engineers, to whom reference has been made, estimate the historical cost as of December 31, 1926, of the consolidated properties at \$1,384,320, the reproduction cost new at \$1,561,214 and the reproduction cost new less depreciation at \$1,380,855. The following tabulation shows a summary of the two appraisals:

Items	Estimated historical.	Reproduction cost new plus overhead.	Depreciated reproduction cost.
Lands -----	\$101,161 00	\$101,161 00	\$101,161 00
Developed water supply-----	310,000 00	310,000 00	310,000 00
Water contract -----	146,700 00	146,700 00	146,700 00
Buildings and structures-----	42,262 00	56,635 00	41,925 00
Intake and suction mains-----	-----	3,187 00	2,746 00
Wells -----	68,349 00	78,774 00	68,534 00
Pumping plant equipment-----	57,654 00	64,388 00	59,199 00
Purification system -----	3,614 00	4,883 00	4,813 00
Transmission mains -----	42,166 00	31,849 00	31,261 00
Distribution mains -----	402,556 00	533,880 00	417,667 00
Distribution reservoir -----	70,291 00	98,899 00	85,972 00

Hydrants -----	\$9,387 00	\$8,859 00	\$6,562 00
Services -----	47,154 00	38,189 00	28,926 00
Meters and services -----	72,948 00	77,719 00	66,673 00
Miscell. distribution equipment--	6,754 00	7,767 00	5,392 00
Materials on hand -----	4,324 00	4,324 00	4,324 00
Totals-----	\$1,384,320 00	\$1,561,214 00	\$1,380,855 00

The estimated historical cost of the properties, excluding the value assigned to develop water supply and water contract, is substantially the same as estimated by the Commission's engineers in rate proceedings involving the properties of Peninsula Water Company and South San Francisco Water Company. Additions and betterments installed since the rate proceedings have been included at cost.

It will be noted that the estimated historical cost and the reproduction cost of the properties include an item of \$310,000, said to represent the value of a developed water supply, and a further item of \$146,700 assigned as the value of water contracts.

It is of record (Exhibit No. 7) that by deed of October 3, 1883, the San Mateo Water Works deeded to the Spring Valley Water Works, predecessor of Spring Valley Water Company, the property and works of the former lying within the present Crystal Springs reservoir and watershed, and received in payment therefor \$395,000 and the right to the perpetual delivery of 300,000 gallons of water per day free of all costs, the delivery to be made into the reservoir of the San Mateo Water Works on the edge of the city of San Mateo at an elevation of 125 feet above sea level. This right has been acquired by the Peninsula Water Company and a value of \$310,000 has been assigned to this developed water supply. It is also of record (Exhibit No. 7) that William H. Howard, his heirs and assigns, under a contract dated May 15, 1884, with the Spring Valley Water Works, are entitled to receive 250,000 gallons of water per day at 15 cents per thousand gallons and under a contract of December 14, 1886, 75,000 gallons of water per day at 5 cents per thousand gallons. The value assigned to the two contracts is \$146,700.

At the hearing F. C. Herrmann testified that in determining such value he assumed that the contracts were not burdened with other contracts and that the William H. Howard Estate Company, successor of William H. Howard, was permitted to use the water as indicated in the contract with Spring Valley Water Works. Since preparing Exhibit No. 6, F. C. Herrmann, however, learned of a contract between William H. Howard and Charles F. Crocker, filed as Exhibit No. 10, which obligates William H. Howard, his successors and assigns, to deliver to Charles F. Crocker, his successors and assigns, not exceeding 60,000 gallons of water in any one day at 13 cents per 1000 gallons. In view of the Crocker contract, F. C. Herrmann testified that his value of \$146,700 should be somewhat reduced. He did not, however, submit

a figure showing the extent of the reduction. Though we have referred to the several contracts we do not feel that we are called upon in this proceeding to determine to what extent such contracts are subject to the jurisdiction of the Commission or whether the values assigned should be modified.

To acquire the properties of the Peninsula Water Company, of the South San Francisco Water Company and William H. Howard Estate Company, the Pacific Water Company asks permission to issue and sell at 94 and accrued interest \$900,000 of 5½ per cent first mortgage bonds due May 1, 1957, and issue \$600,000 of common stock. As of December 31, 1926, the aggregate indebtedness, other than current liabilities, against the properties was reported at approximately \$360,000. Against the same properties applicant Pacific Water Company requests a bond issue of \$900,000. Had the \$900,000 of bonds and \$600,000 of stock been outstanding during 1926, the company would have earned about 4¼ per cent on the common stock.

To recapitalize the properties of operating public utilities on the basis outlined is, we believe, not in the public interest. Having in mind the valuation placed on the properties in these proceedings and also in recent rate cases, and their earnings, we believe that the Pacific Water Company should not issue more than \$650,000 of bonds and not more than \$500,000 of stock to acquire, free and clear of all indebtedness, the properties of Peninsula Water Company, South San Francisco Water Company and William H. Howard Estate Company, referred to in the above entitled proceedings as they existed on December 31, 1926, and pay expenses incident to their acquisition.

Exhibits No. 6 and No. 7 show that from December 31, 1926, to April 30, 1927, the sum of \$48,263 was expended for additions and betterments on the several systems. During the remainder of the year F. C. Herrmann estimates (Exhibits No. 6 and No. 7) that \$62,243 additional expenditures should be incurred for additions and betterments. To finance construction expenditures incurred since December 31, 1926, and prior to December 31, 1927, referred to by F. C. Herrmann, the order herein will authorize the issue of \$100,000 of bonds.

Pacific Water Company has submitted a copy of its proposed mortgage and/or deed of trust (Exhibit No. 19). We have reviewed the proposed trust indenture and find that it should be modified in the following particulars:

a. Sections eleven and twelve of article one shall be amended by substituting \$800,000 for \$1,000,000 wherever said \$1,000,000 appears.

b. Section thirteen of article one shall be amended by substituting sixty per cent for seventy-five per cent wherever said seventy-five per cent appears.

c. Section fifteen of article two shall be amended by striking out the following sentence:

"Any such investigation, made in pursuance of the provisions of this section, had at a time when a necessity arises therefor due to the financial difficulties of the company, shall be at the expense of the company."

d. Section seven of article eight shall be amended so as to provide that every successor trustee shall be a bank or trust company created, organized and existing under and by virtue of the laws of the State of California and having its principal place of business in said State of California.

ORDER.

Peninsula Water Company, South San Francisco Water Company and William H. Howard Estate Company, having asked permission to sell and transfer certain properties to the Pacific Water Company, and Pacific Water Company having asked permission to acquire said properties and issue \$1,000,000 of 5½ per cent first mortgage bonds due May 1, 1957, and \$600,000 of common stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the Pacific Water Company should be permitted to issue not exceeding \$750,000 of said bonds and not exceeding \$500,000 of said stock and that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, Pacific Water Company, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that Application No. 13799, in so far as it involves the issue of \$250,000 of bonds and \$100,000 of stock, should be dismissed without prejudice; therefore,

It is hereby ordered, as follows:

1. Peninsula Water Company may transfer and convey all of its business, assets, rights, franchises and properties, more particularly described in Exhibit No. 20, to Pacific Water Company.

2. South San Francisco Water Company may transfer and convey all of its business, assets, rights, franchises and properties, more particularly described in Exhibit No. 5, to Pacific Water Company.

3. William H. Howard Estate Company may sell, transfer and convey to the Pacific Water Company the properties described in Exhibits No. 1, No. 2 and No. 18.

4. Pacific Water Company may acquire the aforesaid properties and issue on or before December 1, 1927, in payment therefor, including cost of acquiring said properties, not exceeding \$650,000 of its first mortgage 5½ per cent bonds due May 1, 1957, and not exceeding \$500,000 of common stock, provided said properties are acquired free and clear of all liens and incumbrances and provided further that said Pacific Water Company in lieu of delivering the bonds as part payment for the properties may sell the same at not less than 94 per cent of their face value and accrued interest and use said proceeds to pay in part for the properties and the cost incurred to acquire said properties.

5. Pacific Water Company may issue and sell on or before December 1, 1927, at not less than 94 per cent of their face value and accrued

interest \$100,000 5½ per cent first mortgage bonds due May 1, 1957, and use the proceeds to finance the cost of additions and betterments installed subsequent to December 31, 1926, said additions and betterments to be those described in Exhibits No. 6 and No. 7.

6. Pacific Water Company may execute a mortgage and/or deed of trust substantially in the same form as the mortgage or deed of trust filed in these proceedings on June 20, 1927, provided said mortgage and/or deed of trust be amended as indicated in the foregoing opinion, and provided further that the authority herein granted to execute said mortgage and/or deed of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the provisions of the Public Utilities Act and is not intended as an approval of said mortgage and/or deed of trust as to such other legal requirements to which said mortgage and/or deed of trust may be subject.

7. Pacific Water Company shall file with the Railroad Commission within thirty days after the execution of the mortgage and/or deed of trust referred to herein, two certified copies of said mortgage and/or deed of trust.

8. The authority herein granted to transfer properties and to issue stock will become effective upon the date hereof.

9. The authority herein granted to issue bonds will become effective when applicant, Pacific Water Company, has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$750 and when it has filed with the Railroad Commission two certified copies of its mortgage and/or deed of trust which it is herein authorized to execute.

10. Pacific Water Company shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

11. Application No. 13799, in so far as it involves the issue of \$250,000 of bonds and \$100,000 of stock, be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18615.

IN THE MATTER OF THE APPLICATION OF PACIFIC COAST TERMINAL
WAREHOUSE COMPANY FOR ORDER AUTHORIZING THE ISSUE
OF STOCK.

Application No. 13900.

Decided July 13, 1927.

SECURITIES—Stock—To Issue.—Applicant authorized to issue and sell, at not less than \$125 a share, 100 shares of common capital stock of an aggregate par value of \$10,000, and to use the proceeds for the purpose of acquiring and operating a warehouse business.

Ewell D. Moore, for Applicant.

By THE COMMISSION.

OPINION.

Pacific Coast Terminal Warehouse Company asks permission to issue and sell, at \$125 a share, 200 shares of its common capital stock.

Applicant was organized on or about April 25, 1927, under the laws of the State of California, with an authorized capital stock of \$75,000, divided into 750 shares of the par value of \$100 each, all common. It appears that the corporation was organized for the purpose of taking over and operating a public warehouse business located at 820 McGarry street, Los Angeles, heretofore established and carried on by Pacific Coast Terminal Company, a corporation, and consisting of the general storage of groceries, tobacco, rubber, carpets, stoves and other non-perishable and noncombustible commodities. The assets and liabilities of the business as of April 30, 1927, are set forth in Exhibit "A," attached to the petition, as follows:

Assets.

Cash	\$53 58
Accounts receivable	6,083 56
Notes receivable	3,958 19
Warehouse equipment and fixtures	3,143 73
Automobiles	3,212 65
Stationery and supplies	864 41
Unexpired insurance	486 91
Dues and subscriptions	46 97
Total assets	\$17,850 00

Liabilities and Net Worth.

Notes payable	\$5,350 00
Capital stock	10,000 00
Surplus	2,500 00
Total liabilities and net worth	\$17,850 00

Applicant asks permission to issue 95 shares of its stock to Pacific Coast Terminal Company and five shares to its directors for cash at \$125 a share for the purpose of acquiring and conducting the warehouse business. In addition, it desires to sell to Pacific Coast Terminal Company an additional 100 shares when and as needed in the business. It has not, however, made a definite showing of the necessity of issuing the additional stock and the Commission, therefore, can not pass finally at this time on that portion of the application. The issue and sale of these additional shares can be considered in supplemental orders in this matter.

ORDER.

Pacific Coast Terminal Warehouse Company having applied to the Railroad Commission for permission to issue stock, and the Commission being of the opinion that this is a matter in which a public hearing is not necessary, and that the money, property or labor to be procured or paid for through the issue of the stock herein authorized is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that Pacific Coast Terminal Warehouse Company be and it hereby is authorized to issue and sell, on or before December 31, 1927, at not less than \$125 a share, 100 shares of its common capital stock of the aggregate par value of \$10,000, for the purpose of acquiring and operating the warehouse business referred to in the opinion preceding this order.

It is hereby further ordered, that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18616.

**IN THE MATTER OF THE APPLICATION OF LOS ANGELES COMPRESS
AND WAREHOUSE COMPANY FOR ORDER AUTHORIZING ISSUE
OF STOCK.**

Application No. 13917.

Decided July 13, 1927.

SECURITIES—STOCK—To ISSUE.—Applicant authorized to issue and sell at not less than par \$130,000 of its common capital stock.

Newland and Ashburn, for Applicant.

BY THE COMMISSION.

OPINION.

Los Angeles Compress and Warehouse Company in this application asks permission to issue and sell at par \$750,000 of its common capital stock, divided into 7500 shares of the par value of \$100 each, for the purpose of acquiring and constructing cotton compress and warehouse facilities and operating the same.

The Los Angeles Compress and Warehouse Company filed its articles

of incorporation with the Secretary of State on July 1, 1927. It has an authorized capital stock of \$750,000.

It is of record that applicant's incorporators, other than A. W. Ashburn, its attorney, are engaged in the business in the city of Los Angeles as cotton merchants and constitute eight out of eleven members of the Los Angeles Cotton Exchange. It appears that they handle, and for some years past have handled, more than two-thirds of the cotton which has passed through the port of Los Angeles, and during the past season more than 80 per cent of the cotton which passed through the port of Los Angeles. They have agreed among themselves that they will, so long as they may be stockholders of applicant corporation, cause their cotton passing through the city of Los Angeles (except such as might be purchased when or in storage in Los Angeles) to be stored and/or compressed in the plant which applicant proposes to construct and operate.

The parties interested in organizing applicant corporation, other than A. W. Ashburn, are Walter J. Simpson, J. G. Boswell Company, Howard and Grigsby, M. G. Scott, L. Gordon White, Mauldin and Company, G. S. Atkinson, and Anderson, Clayton and Company. They have jointly agreed to provide applicant with \$260,000 for initial capital. One-half (\$130,000) has heretofore been paid to A. H. Lamberth, Walter J. Simpson and M. G. Scott as trustees. They have taken possession of the Municipal Cotton Compress and Warehouse No. 1 of the city of Los Angeles for the benefit of applicant corporation, and have expended, according to the petition herein, \$4,036.35 of the \$130,000 on account of the purchase price of a new cotton compress and other expenses incident to the organization of applicant corporation. Upon the delivery to the trustees of \$130,000 of stock of and by applicant, the trustees will deliver to applicant whatever cash they may then have on hand and such properties as they may have acquired, provided applicant assume the obligations which the trustees may have incurred in connection with the acquisition of property for the benefit of applicant.

The petition shows (Exhibit No. 5) that the city of Los Angeles has agreed to grant to applicant a thirty-year permit to occupy a 10.16-acre parcel of land lying northerly of Twenty-second street and adjacent on the east to the line of the Outer Harbor Dock and Wharf Company, such property now being known as Municipal Cotton Compress and Warehouse No. 1. This property has been rented to the trustees at a rental of 1 cent per square foot per annum. The city further agrees to open negotiations at once with the Outer Harbor Dock and Wharf Company for the purpose of securing, if possible, an additional ten acres of land lying westerly of said 10.16 acres mentioned above, which, if secured, the city agrees to fill to the established grade and rent to

the company on the same basis as the 10.16-acre parcel. If the city should fail to secure such additional ten acres of land, upon terms agreeable to it, on or before September 1, 1927, then the city agrees that it will remove to another location on city land on Los Angeles harbor the Webb steam press which the company intends to erect at the Twenty-second street site and will assume the cost of such removal up to and including the sum of \$15,000.

Applicant reports that it will not be able to construct its new warehouse and have the same ready for use to take care of the coming season's cotton storage. It has submitted neither plans nor specifications nor an estimated cost of its new warehouse. It intends, however, to undertake such construction immediately upon the close of the coming cotton season. During this season it will conduct its business in the present sheds located upon the property mentioned. It will, however, acquire and install a new compress, and asks permission to use the \$130,000 which has been paid to the trustees for the purpose of purchasing and installing its new cotton compress and acquiring other properties necessary to undertaking its business and providing itself with working capital. It is obvious that this Commission can not authorize applicant to issue \$750,000 of stock until furnished with a detailed statement showing the purposes for which the proceeds obtained from the sale of such stock are to be expended. We believe that the company should at this time be permitted to issue \$130,000 of its common capital stock. Upon the filing of a supplemental application containing detailed plans and specifications and an estimate of the cost of applicant's warehouse and other properties, except such as are mentioned in the order herein, the Commission will give further consideration to authorizing applicant to issue additional stock.

ORDER.

Los Angeles Compress and Warehouse Company, having asked permission to issue \$750,000 of its common capital stock and the Commission having considered such request and being of the opinion that this is a matter in which a public hearing is not necessary, in so far as the issue of \$130,000 of stock is concerned, and that applicant should be permitted to issue said \$130,000 of stock, that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that this application should be granted to the extent indicated in this order; therefore,

It is hereby ordered, that the Los Angeles Compress and Warehouse Company be and it is hereby authorized to issue and sell, on or before October 1, 1927, at not less than par, \$130,000 par value of its common capital stock and use the proceeds for the following purposes:

Cost of compress machinery-----	\$35,671 00
Cost of boilers-----	16,825 00
Installing compress and boilers-----	7,502 00
Organization and legal expenses-----	4,000 00
Automobiles-----	2,100 00
Stationery, supplies and office furniture-----	1,600 00
Working capital, including rent and salaries, pending collection of storage and other charges-----	62,300 00
Total -----	\$130,000 00

Any proceeds not needed for the aforementioned purposes may be expended only for such purposes as the Commission may hereafter authorize by supplemental order or orders.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof and that the Los Angeles Compress and Warehouse Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18619.

N. H. NEKLASON ET AL.

vs.

THE RATTERREE BROTHERS, INC.

Case No. 2304.

Decided July 13, 1927.

SERVICE—WATER UTILITY—INADEQUATE SUPPLY.—Defendant utility ordered to submit to the Commission within twenty days plans and specifications for the improvement of its water supply system, same to be completed, upon approval of the Commission, on or before August 31, 1927.

S. T. Hogevoel, Attorney for Complainants.
J. M. Ratterree, for Defendant.

LOUTTIT, Commissioner.

OPINION.

In this proceeding, as entitled above, a complaint is brought against The Ratterree Brothers Company, a corporation, which owns and operates a public utility water system supplying water for domestic purposes in what is known as Golden West Park, a realty subdivision located in Visitacion Valley, San Mateo County. The complaint alleges in effect that the water supply provided by defendant is entirely insufficient and inadequate as regards quantity and pressure for the present needs and

requirements of its consumers and the Commission is requested to issue an order requiring defendant to improve the existing service conditions.

Public hearings were held in this proceeding at San Francisco on April 5 and May 3, 1927, of which all interested parties were duly notified and given the opportunity to appear and be heard.

Ratterree Brothers are the realty promoters and sales agents of Golden West Park tract and installed the existing water pipe mains therein about 1914. The water supply is obtained by purchase from Spring Valley Water Company through a 2-inch metered connection on their 44-inch transmission pipe main at a point about 1000 feet from the tract. The distribution system consists of four lines of 1½-inch screw pipe laid in the streets of the tract without cross main connections and is supplied by a 4-inch standard screw pipe line running to the Spring Valley pipe line. The tract is subdivided into approximately 1000 lots and at present there are only 94 metered domestic services, of which about 86 are active consumers.

The evidence shows that the consumers who have complained herein of insufficient water service and pressures are largely residents in the tier of five blocks of the tract which are located south of Martin street on the sidehill at the far end of the distribution pipe lines. In this high area of the tract there are at present 20 residences. The investigation made by the hydraulic division of the Commission disclosed that under the conditions of normal drafts on the distribution mains the volume and pressure of water delivered to these residences is inadequate for their needs; however, fairly good pressures and service are provided to the residences in the other portions of the tract at lower levels. During the periods of peak drafts on the system, it was found that the pressures in this high area are reduced to such an extent that at times the water will barely reach the first floors of certain of the residences.

Defendant admitted the poor service conditions complained of and, following the hearing held on April 5, 1927, installed certain improvements on the system, including a second 2-inch metered tap on the Spring Valley main to increase the volume of flow and 720 feet of 1½-inch screw pipe in a cross street about the middle of the tract for the purpose of providing for circulation of water in the distribution mains. As a result the service conditions were to some extent improved in the higher levels of the tract, as shown by the records of the pressure tests made. However, it is evident that proper water pressures and service can not be furnished the present consumers in this high area with the existing small diameter distributing mains and the water pressure available from the Spring Valley source of supply. Furthermore, service conditions will become worse as the number of consumers and consumption of water increases on the system, as predicted for the future.

As disclosed by the evidence, the water supply facilities of this utility at present installed are inadequate to supply the growing needs of this community, particularly in the high area of the tract located south of Martin street and, therefore, defendant should install at once the improvements necessary to provide adequate and proper service to all consumers. It is apparent that these improvements should include some type of booster pump installation to provide the pressures and volume of water required in the high area of the tract and the installation of a 4-inch distribution pipe main to extend across the street and connect with the existing 4-inch main on Walbridge street. It is further recommended that the defendant obtain the services of a water supply engineer to study the situation and prepare plans and specifications for the necessary improvements.

The following form of order is submitted:

ORDER.

Formal complaint having been made as entitled above, public hearings having been held, the matter having been submitted and the Commission being now fully informed thereon;

It is hereby ordered, for the reasons set out in the opinion which precedes this order that, within twenty days from the date of this order, Ratterree Brothers, Inc., submit to this Commission for its approval plans and specifications for the improvement of their water supply system which will remedy the existing conditions of inadequate and insufficient service to consumers and that, following such approval by the Commission, the work of installation of such improvements shall proceed immediately and be completed and in satisfactory operation on or before the thirty-first day of August, 1927.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18636.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSPORTATION COMPANY AND CALIFORNIA NAVIGATION AND IMPROVEMENT COMPANY TO SELL THEIR PROPERTIES TO THE CALIFORNIA TRANSPORTATION COMPANY AND THE CALIFORNIA TRANSPORTATION COMPANY TO OPERATE VESSELS, ISSUE THREE MILLION FIVE HUNDRED THOUSAND DOLLARS OF STOCK AND SIX HUNDRED FIFTY THOUSAND DOLLARS OF BONDS.

Application No. 13636.

Decided July 13, 1927.

SECURITIES—To ISSUE.—Authority granted The California Transportation Company to issue \$1,750,000 of common stock in addition to the \$750,000 authorized by Decision No. 18218. Application dismissed in so far as it involves the issue of \$1,000,000 of common stock.

BY THE COMMISSION.

SECOND SUPPLEMENTAL ORDER.

By Decision No. 18218, dated April 11, 1927, the Commission authorized The California Transportation Company, among other things, to issue \$750,000 of its common capital stock and \$650,000 of its first mortgage 6 per cent gold bonds due March 1, 1939, to pay in part for the properties of California Transportation Company and California Navigation and Improvement Company.

Quoting from the opinion in Decision No. 18218:

"Representatives of the Commission have not yet completed their examination of the appraisals submitted. It is urged, however, that applicants have need for the cash which will be realized from the sale of \$650,000 of bonds to pay indebtedness incurred to construct the "Delta King" and "Delta Queen." They request that a preliminary order be entered authorizing the issue of the bonds and some of the stock. We believe that such request should be granted. The order herein will authorize The California Transportation Company to issue and sell the \$650,000 of bonds and issue \$750,000 of stock subject to the provisions of the order. When the Commission's representatives have completed their examination of the appraisals and properties of applicants, consideration will be given to the issue of additional stock by The California Transportation Company to pay for the properties it intends to acquire."

On May 26th the Commission furnished applicants with a copy of the Commission's engineering department's valuation of the properties of California Transportation Company and California Navigation and Improvement Company and advised them that it was the intention of the Commission to consider the valuation as part of the record in Application No. 13636. Recently the Commission has been advised that applicants would not take any exceptions to the valuation of the properties submitted by the Commission's engineering department.

We have given further consideration to the evidence submitted at the hearing had on April 7th and also the valuation report of the engineering department, and are of the opinion that The California Transportation Company should be permitted to issue \$1,750,000 of additional common stock, that the money, property and labor to be procured and paid for by such stock is reasonably required by applicant, The California Transportation Company, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application in so far as it involves the issue of \$1,000,000 of stock should be dismissed without prejudice; therefore,

It is hereby ordered, that The California Transportation Company be and it is hereby authorized to issue common stock in the amount

of \$1,750,000 to pay in part for the properties of California Transportation Company and California Navigation and Improvement Company, referred to in Decision No. 18218, dated April 11, 1927, in Application No. 13636, said stock to be in addition to the \$750,000 authorized by said Decision No. 18218.

It is hereby further ordered, that Application No. 13636 in so far as it involves the issue of \$1,000,000 of stock be and the same is hereby dismissed without prejudice.

It is hereby further ordered, that the order in Decision No. 18218, dated April 11, 1927, shall remain in full force and effect except as modified by this second supplemental order.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18642.

IN THE MATTER OF APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY FOR AUTHORITY TO ABANDON SERVICE AND REMOVE ITS TRACKS ON CERTAIN STREETS IN THE CITY OF REDLANDS, CALIFORNIA.

Application No. 10298.

Decided July 13, 1927.

SERVICE—STREET RAILWAY—To ABANDON.—Application granted.

C. W. Cornell and O. A. Smith, for Applicant.

W. L. Thornguest, C. A. Rolfe, L. M. King and Geo. A. Tyree, for Citizens' and Trustees' Transportation Committee of the City of Redlands, Protestant.

F. A. Leonard, City Attorney, and Allen Wheaton, Mayor, for the City of Redlands, Protestant.

A. E. Isham, for Redlands Chamber of Commerce, Protestant.

H. C. Clement, for Redlands School District, Protestant.

Helen C. Meserve, Secretary, for Contemporary Club, Protestant.

Ben Johnson, for the Rotary Club, Protestant.

H. H. Garsgin, for Kiwanis Club of Redlands, Protestant.

H. P. D. Kingsbury, for Realty Board of Redlands, Protestant.

Miss H. D. Eaton, for the Spinnet Club, Protestant.

Mrs. E. S. Cochran, for Parent-Teachers' Association, Protestant.

L. B. Boyd, for Redlands Country Club, Protestant.

Rev. E. S. Layne, for the Ministerial Union, Protestant.

Mrs. S. Guy Jones, for University of Redlands, Protestant.

BY THE COMMISSION.

OPINION.

Pacific Electric Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing the suspension of service, abandonment and removal of tracks on the following street railway lines in the city of Redlands, county of San Bernardino.

(1) Commencing at or near the northerly line of Citrus avenue and extending southeasterly on Orange street, Cajon and Garden streets to the end of line at Cajon road.

(2) From Cypress street southwest on Cypress avenue to Center street; southeast on Center street to Cedar street and southwest on Cedar street to end of line.

(3) Commencing at Orange street, thence west on Citrus avenue to Brookside avenue, southwest on Brookside avenue to end of line at San Mateo street.

(4) Commencing at Sixth street on Citrus avenue, thence east on Citrus avenue to end of line near Wabash avenue.

The lines proposed to be abandoned are more fully shown in purple color on a blue-print map, marked "C. E. 6668-a" as attached to and forming a part of the application herein.

Applicant proposes to substitute for the street railway service herein proposed to be abandoned, the following motor bus service:

(1) Commencing at or near the northerly line of Citrus avenue and extending southeasterly on Orange street, Cajon and Garden streets to end of line at Cajon road.

(2) Commencing at the intersection of State street and Orange street, thence south on Orange street to Cajon street, thence southeast on Cajon street to Cypress avenue, thence southwest on Cypress avenue to Center street, thence southeast on Center street to Highland avenue, thence southwest on Highland avenue to the end of the street railway line hereinabove described in paragraph "2."

(3) Commencing at the intersection of Orange and State streets, thence east on State street to Church street, thence north on Church street to Santa Fe Railway tracks, thence in a generally northeasterly direction through Sylvan Park to terminus near East street.

The motor bus lines proposed to be operated are more fully shown in black on a blue-print map marked "C. E. 6668-a" as attached to and forming a part of the application herein.

A public hearing on this application was conducted by Examiner Handford at Redlands, at which the matter was duly submitted.

Applicant alleges that there is not sufficient patronage on the lines proposed to be abandoned to justify their continued operation; that operation has for some time been conducted at a loss; that continued operation would necessitate the expenditure of large amounts for repairs and maintenance, and for paving and reconstruction necessary to comply with the requirements of the city of Redlands under its street improvement proceedings; that applicant does not believe there is any prospect of sufficient patronage in the future which justifies continued street car operation and the cost of reconstruction and repairs; and that public convenience and necessity does not exist for the further use and maintenance of said street car lines which are no longer necessary or convenient to the conduct of the applicant's business.

L. E. St. John, assistant to auditor of applicant, testified as to receipts and expenditures on the lines herein proposed to be abandoned. From exhibits presented by this witness, the revenue and out-of-pocket cost of operation for the respective lines is as follows:

Year Ending May 31, 1924.

	<i>Country Club line</i>	<i>Smiley Heights line</i>	<i>Recapitulation, all lines</i>
<i>Operating income</i>			
Passenger revenue	\$3,782 90	\$9,809 14	\$13,592 04
Station and car privileges.....	94 52	165 78	260 30
Total operating revenue.....	\$3,877 42	\$9,974 92	\$13,852 34
Direct operating expenses.....	6,265 55	10,990 24	17,255 79
Net operating loss.....	\$2,388 13	\$1,015 32	\$3,403 45
Depreciation and taxes.....	709 99	1,808 94	2,750 33
Total operating loss.....	\$3,098 12	\$2,824 26	\$6,153 78

In the foregoing compilation only direct operating charges have been considered, together with depreciation on cars, state and franchise taxes.

If all operating charges were to be included the revenue and expenses would, according to a statement filed as an exhibit, result in the following statement:

Year Ending May 31, 1924.

	<i>Country Club line</i>	<i>Smiley Heights line</i>	<i>Recapitulation, all lines</i>
<i>Operating income</i>			
Passenger revenue	\$3,782 90	\$9,809 14	\$13,592 04
Station and car privileges.....	94 52	165 78	260 30
Total operating revenue.....	\$3,877 42	\$9,974 92	\$13,852 34
<i>Operating Expense</i>			
Railway operating expense.....	7,384 16	13,019 04	20,403 20
Net operating loss.....	\$3,506 74	\$3,044 12	\$6,550 86
Depreciation and taxes.....	716 03	1,819 54	2,766 97
Railway operating loss.....	\$4,222 77	\$4,863 66	\$9,317 83

O. A. Smith, passenger traffic manager of applicant, testified as to investigations made of traffic conditions and endeavors to continue street service at a minimum deficit; that during the power shortage the substitution of bus service, while conserving power, did not attract additional patronage; and that the local travel in Redlands was steadily decreasing due to the use of private automobiles.

H. E. De Nyse, assistant engineer of applicant, testified regarding the physical condition of the lines herein proposed to be abandoned, stating that all were in bad condition, particularly as to ties which had never been fully renewed since the time of construction, a period of

20 years, and that within two or three years the lines would require complete rehabilitation and reconstruction. The witness estimates the expense of track reconstruction to be \$20,000 for the Citrus avenue line, \$30,000 for the Smiley Heights line, and \$19,500 for the Country Club line, an estimated total of \$69,500. The overhead construction would also require rehabilitation, particularly as to pole lines, but no estimate had been made of the expenditure which would be required.

The attitude of protestants, as appearing from statements of counsel and witnesses testifying at the hearing, was that although the car lines could not be operated, any bus service which might be installed should be of sufficient frequency to encourage local travel to an extent which would make the revenue received from operation meet the expense thereof. Some criticism was also made as to the type of bus proposed, it being the desire of protestants for the use of modern and attractive equipment.

From the record herein it appears that the local street car lines in the city of Redlands have not been profitable for many years, applicant having originally acquired some of the lines at the time of consolidation with other companies; and that for some years there has been a decreasing patronage due to privately owned automobiles, there being no competitive bus service which would divert traffic.

The Citizens' and Trustees' Transportation Committee of the city of Redlands, protestant herein, by conference with applicant's officials, has secured the consent of applicant to the withdrawal of its application for the discontinuance of street car service on the Smiley Heights line, it being agreed that the operation of such line shall be continued on a local fare of ten cents for adults and five cents for children. The city of Redlands, by its petition filed herein concurs with the recommendation of the transportation committee.

Applicant has filed herein its amended application withdrawing its request for the abandonment of the Smiley Heights line, being the portion of the line hereinbefore described in paragraph 1 of the original application between the northerly line of Citrus avenue and Cypress avenue and all of the line as described in paragraph 2 of said original application.

Upon the record herein and in view of the agreement reached with protestants by the applicant and the Citizens' and Trustees' Transportation Committee of the city of Redlands, said agreement being approved by the city of Redlands as hereinabove stated, we conclude and hereby find the following facts:

I. That public convenience and necessity do not require the operation of the Brookside, Citrus avenue, and Country Club street car lines of applicant in the city of Redlands.

II. That the revenue received from the operation of the aforesaid Brookside, Citrus avenue, and Country Club street car lines does not return the out-of-pocket cost of operation, and that there is no prospect of traffic which would justify the continued operation of said lines and return the cost of operation, depreciation, taxes and a reasonable return on the investment.

III. That the cost of reconstructing and rehabilitating tracks and overhead construction on the aforesaid lines is not justified.

ORDER.

A public hearing having been held on the above entitled application, the matter having been duly submitted and the Commission being now fully advised and basing its order on the findings of fact as appearing in the opinion which precedes this order:

It is hereby ordered, that applicant Pacific Electric Railway Company, a corporation, be and the same hereby is granted authority to suspend service and to abandon and remove its tracks, overhead construction and appurtenances in the city of Redlands on the following lines:

1. Commencing at Cypress avenue and extending southeasterly on Cajon and Garden streets to end of line at Cajon road.
2. Commencing at Orange street, thence west on Citrus avenue to Brookside avenue, southwest on Brookside avenue to end of line at San Mateo street.
3. Commencing at Sixth street on Citrus avenue; thence east on Citrus avenue to end of line near Wabash avenue.

All as more fully shown on a blue-print map marked "C. E. 6668-a" as filed with the application herein.

It is hereby further ordered, that applicant Pacific Electric Railway Company, a corporation, file with this Commission, in conformity with its tariff regulations, cancellation of all tariffs covering service on the street car lines herein ordered discontinued.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18645.

THE CITY OF MONROVIA, A MUNICIPAL CORPORATION,

vs.

THE MONROVIA TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY.

Case No. 2360.

THE CITY OF ARCADIA, A MUNICIPAL CORPORATION,

vs.

THE MONROVIA TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, AND PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION.

Case No. 2381.

Decided July 13, 1927.

SERVICE—TELEPHONE UTILITY—INTEREXCHANGE RATES.—The Monrovia Telephone and Telegraph Company and The Pacific Telephone and Telegraph Company directed to discontinue inadequate free service between The Monrovia and Arcadia exchanges and to institute adequate interexchange service at a station-to-station rate of 5 cents per call.

William B. Palmer, for City of Monrovia.

A. N. Multer, for City Council of Arcadia and Arcadia Chamber of Commerce.

Hal M. Slemons, for Arcadia Chamber of Commerce.

J. G. Marshall, for The Pacific Telephone and Telegraph Company.

Ernest Irwin, for Monrovia Telephone and Telegraph Company and California Independent Telephone Association.

BRUNDIGE, Commissioner.

OPINION.

In the above entitled matters, complaint is made against The Monrovia Telephone and Telegraph Company and The Pacific Telephone and Telegraph Company alleging that the present single telephone circuit connecting the Monrovia exchange of the first named company and the Arcadia exchange of the last named company will not take care of the telephone traffic offered and requesting that defendants be required to install a sufficient number of circuits between the said cities of Monrovia and Arcadia to provide adequate and satisfactory telephone service to all desiring to use such interexchange service and that said companies be permitted to charge for such service at the rate of 5 cents per five-minute message and further that the present so-called free service be withdrawn.

The above entitled proceedings relate to the same matter of complaint and relief, the first, No. 2360, having been made by the city of Monrovia and the last, No. 2381, by the city of Arcadia.

A public hearing was held on these matters in Los Angeles on June 29, 1927, at which time they were consolidated for the purpose of receiving evidence and for decision.

Defendants in their answers to these complaints stated a willingness to discontinue the so-called free service as complained of and, in lieu thereof, to provide necessary circuits for service between the above mentioned exchanges at a station-to-station rate of 5 cents for each five-minute message.

The Pacific Telephone and Telegraph Company, by its witness, gave evidence that it could provide four circuits for interexchange toll service between the Monrovia and Arcadia exchanges within a period of one

week after the issuance of an order so to do, and would provide additional circuits as found necessary for adequate service. It further agreed to charge for service over such circuits at the rate of 5 cents for the first five minutes of each message, overtime to be at the rate of 5 cents for each additional five-minute period.

The Monrovia Telephone and Telegraph Company, by its witness, agreed to the abandonment of the so-called free service and to cooperate with The Pacific Telephone and Telegraph Company in the rendering of adequate service between the above-mentioned cities at the rates proposed.

No one opposed the proposed change in operation of and charges for service.

There appears no good reason why complainant's request should not be granted and I believe that the interests of the subscribers to telephone service in the cities of Monrovia and Arcadia and of the public generally will be properly served by the granting of this request. I propose the following form of order:

ORDER.

The city of Monrovia and the city of Arcadia having made complaint against The Monrovia Telephone and Telegraph Company and The Pacific Telephone and Telegraph Company in which request is made that said defendants be required to install a sufficient number of circuits between the cities of Monrovia and Arcadia to provide adequate and satisfactory telephone service to all desiring to use such interexchange service; that the charge for such service should be at the rate of 5 cents per five-minute message, and further that the so-called free service should be withdrawn; a public hearing having been held, the matters having been submitted, and the Railroad Commission being of the opinion that the request made in these complaints should be granted as herein provided;

It is hereby ordered, that The Monrovia Telephone and Telegraph Company and The Pacific Telephone and Telegraph Company shall provide for service, on or before August 1, 1927, the necessary direct circuits between the Monrovia exchange of the former and the Arcadia exchange of the latter company; to provide adequate interexchange telephone service between said exchanges at a station-to-station initial rate of 5 cents for an initial period of five minutes and with an overtime rate of 5 cents for an overtime period of five minutes.

It is hereby further ordered, that the Monrovia Telephone and Telegraph Company and The Pacific Telephone and Telegraph Company shall discontinue the present so-called free service between the Monrovia and Arcadia exchanges on and after the date on which the above ordered service is made available; and

It is hereby further ordered, that The Pacific Telephone and Telegraph Company shall notify the Railroad Commission within five days after the date on which compliance with the above orders shall have been made; and

It is hereby further ordered, that The Pacific Telephone and Telegraph Company shall, at least three days before toll telephone service is made available over direct circuits between the Monrovia and Arcadia exchanges as ordered above, submit for filing, in accordance with General Order No. 68 of this Commission, the rates as set forth above for interexchange toll service between said exchanges.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18646.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISE RIGHTS GRANTED TO IT BY THE CITY OF HUNTINGTON BEACH, AND FOR A PRELIMINARY ORDER FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISE RIGHTS APPLIED FOR AS, IF AND WHEN GRANTED BY THE CITY OF OJAI.

Application No. 13826.

Decided July 13, 1927.

CERTIFICATE—GAS UTILITY—FRANCHISE RIGHTS—To EXERCISE.—Application granted.

Leroy M. Edwards, for Applicant.

George F. Dennison, for the City of Ojai.

BRUNDIGE, Commissioner.

OPINION.

This is an application by Southern Counties Gas Company of California for an order declaring that public convenience and necessity require the exercise by it of the rights and privileges of franchise granted by the city of Huntington Beach, and for a preliminary order declaring that public convenience and necessity will require the exercise by it of the rights and privileges of franchise which have been applied for to the city of Ojai.

Public hearing was held in Los Angeles, June 28, 1927, at which time testimony was introduced and the matter submitted for decision.

It appears that on March 7, 1927, applicant purchased the theretofore municipally owned and operated gas distribution system of the

city of Huntington Beach and has since that date been operating the same.

Ordinance No. 302 passed May 16, 1927, by the board of trustees of the city of Huntington Beach, grants applicant a franchise to install, operate and maintain gas facilities within the city of Huntington Beach. This franchise, a copy of which is attached to the application, is for a period of forty years and carries the usual provision for a tax of two per cent of the gross revenue, effective five years from the date of grant.

Witness for applicant testified that no other company is serving gas in the city of Huntington Beach, that service can be rendered without detriment to present consumers on applicant's system and that this service is in the public interest.

Applicant has agreed to file with the Commission a stipulation, duly and legally approved by resolution of its board of directors, to the effect that applicant, its successors or assigns, will never claim before the Railroad Commission or any court or public body, any value for the aforesaid franchise in excess of the actual cost thereof.

It further appears that applicant is now and for several years past has been distributing natural gas to consumers located in various parts of the county of Ventura, and that it is the only utility distributing gas in said county; that applicant has recently been approached by the city of Ojai, county of Ventura, to supply that city with natural gas; that applicant has applied to the board of trustees of Ojai to grant a franchise covering such service, which application was accepted by the board on May 23, 1927, the board passing a resolution to offer for sale such a franchise on July 18, 1927.

A. L. Drown, mayor of Ojai and chairman of its board of trustees, gave testimony to the effect that he, as representative of the city of Ojai, joined in the request that preliminary order be granted. He further stated that the granting of said franchise to applicant by the city of Ojai was dependent upon the establishment of a gas rate which was satisfactory to the people of Ojai.

Witness for applicant testified that the rates applicant proposed to apply for this service are as follows:

Monthly consumer charge-----\$1 25 per meter

Commodity rate:

First 2,000 cubic feet per meter per month-----\$1 30 per M.c.f.

All over 2,000 cubic feet per meter per month-----1 00 per M.c.f.

Witness for applicant further testified that no other company is serving gas in the city of Ojai, that service can be rendered without detriment to present consumers on applicant's system, and that this service is in the public interest.

Applicant has agreed to file with the Commission a stipulation duly and legally approved by resolution of its board of directors to the effect that applicant, its successors or assigns, will never claim before the Railroad Commission or any court or public body any value for the aforesaid franchise in excess of the actual cost thereof.

I recommend the following form of order:

ORDER.

Southern Counties Gas Company of California having applied to the Railroad Commission of the State of California for a certificate of public convenience and necessity for the exercise of certain rights and privileges granted by the city of Huntington Beach, Ordinance No. 302, and for a preliminary order declaring that public convenience and necessity will require the exercise of a franchise to be secured from the city of Ojai, a public hearing having been held, the matter having been duly submitted and now being ready for decision;

The Railroad Commission of the State of California hereby certifies and declares that public convenience and necessity require and will require the exercise by Southern Counties Gas Company of California, of those rights and privileges granted by Ordinance No. 302, adopted by the board of trustees of the city of Huntington Beach on May 16, 1927, subject to the following condition:

That on or before August 31, 1927, Southern Counties Gas Company of California shall file with this Commission a stipulation, duly executed upon authority of its board of directors, to the effect that applicant, its successors or assigns, will never claim before the Railroad Commission or any court or public body, any value for the aforesaid franchise in excess of the actual cost thereof.

The Railroad Commission of the State of California further declares that hereafter, upon the filing of a supplementary application accompanied by a certified copy of the ordinance by the city of Ojai, granting applicant a franchise, and of a satisfactory stipulation regarding claims for the value of such franchise, the Railroad Commission of the State of California will certify and declare that public convenience and necessity require and will require the exercise by Southern Counties Gas Company of California of the rights and privileges granted to it by such ordinance, subject to such terms and conditions as the Commission may prescribe.

The authority herein granted shall be effective from and after the date of this order.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirteenth day of July, 1927.

DECISION No. 18647.

IN THE MATTER OF THE APPLICATION OF PACIFIC WATER COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL ITS FIRST MORTGAGE BONDS OF THE PAR VALUE OF ONE MILLION DOLLARS AND ITS COMMON STOCK OF THE PAR VALUE OF SIX HUNDRED THOUSAND DOLLARS, AND FOR AUTHORITY TO ACQUIRE PUBLIC UTILITY PROPERTIES IN THE STATE OF CALIFORNIA.

Application No. 13799.

IN THE MATTER OF THE APPLICATION OF WILLIAM H. HOWARD ESTATE COMPANY, A CORPORATION, FOR AUTHORITY TO SELL AND CONVEY CERTAIN PROPERTIES TO THE PACIFIC WATER COMPANY.

Application No. 13800.

IN THE MATTER OF THE APPLICATION OF PENINSULA WATER COMPANY FOR AUTHORITY TO TRANSFER AND CONVEY ALL OF ITS BUSINESS ASSETS AND PROPERTIES TO PACIFIC WATER COMPANY.

Application No. 13801.

IN THE MATTER OF THE APPLICATION OF SOUTH SAN FRANCISCO WATER COMPANY, A CORPORATION, FOR AUTHORITY TO TRANSFER AND CONVEY ALL OF ITS BUSINESS ASSETS AND PROPERTIES TO PACIFIC WATER COMPANY.

Application No. 13814.

Decided July 19, 1927.

SECURITIES—STOCK AND BONDS—To ISSUE.—Pacific Water Company authorized to issue \$700,000 of its first mortgage, 5½ per cent, bonds and \$550,000 of common stock instead of \$650,000 of said bonds and \$500,000 of said stock as provided in Decision No. 18612.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Good cause appearing:

It is hereby ordered, that Provision No. 4 of the order in Decision No. 18612, dated July 13, 1927, reading

Pacific Water Company may acquire the aforesaid properties and issue on or before December 1, 1927, in payment therefor, including costs of acquiring said properties not exceeding \$650,000 of its first mortgage, 5½ per cent, bonds due May 1, 1957, and not exceeding \$500,000 of common stock, provided said properties are acquired free and clear of all lines and incumbrances, and provided, further, that said Pacific Water Company, in lieu of delivering the bonds as part payment for the properties, may sell the same at not less than 94 per cent of their face value and accrued interest and use said proceeds to pay in part for the properties and the cost incurred to acquire said properties.

be and the same is hereby amended so as to read:

Pacific Water Company may acquire the aforesaid properties and issue, on or before December 1, 1927, in payment therefor, including costs of acquiring said properties, not exceeding \$700,000 of its first mortgage, 5½ per cent, bonds due May 1, 1957, and not exceeding \$550,000 of common stock, provided said properties are acquired free

and clear of all liens and incumbrances, and provided, further, that said Pacific Water Company, in lieu of delivering the bonds as part payment for the properties, may sell the same at not less than 94 per cent of their face value and accrued interest and use said proceeds to pay in part for the properties and the cost incurred to acquire said properties.

It is hereby further ordered, that Provision No. 9 of the order in Decision No. 18612, dated July 13, 1927, reading

The authority herein granted to issue bonds will become effective when applicant, Pacific Water Company, has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is seven hundred fifty dollars (\$750), and when it has filed with the Railroad Commission two certified copies of its mortgage and/or deed of trust which it is herein authorized to execute.

be and the same is hereby amended so as to read:

The authority herein granted to issue bonds will become effective when applicant, Pacific Water Company, has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is eight hundred dollars (\$800), and when it has filed with the Railroad Commission two certified copies of its mortgage and/or deed of trust which it is herein authorized to execute.

It is hereby further ordered, that Provision No. 11 of the order in Decision No. 18612, dated July 13, 1927, and reading

Application No. 13799, in so far as it involves the issue of \$250,000 of bonds and \$100,000 of stock, be and the same is hereby dismissed without prejudice.

be and the same is hereby amended so as to read:

Application No. 13799, in so far as it involves the issue of \$200,000 of bonds and \$50,000 of stock, be and the same is hereby dismissed without prejudice.

Dated at San Francisco, California, this nineteenth day of July, 1927.

DECISION No. 18651.

IN THE MATTER OF THE APPLICATION OF THE MONTICELLO UTILITY CORPORATION FOR AN ORDER AUTHORIZING THE ISSUE OF STOCK.

Application No. 13840.

Decided July 21, 1927.

SECURITIES—STOCK—TO ISSUE—TRANSFER—Monticello Utility Corporation authorized to acquire certificate and properties of E. F. Gardner, and to issue \$15,000 of common stock in payment therefor. Application dismissed in so far as it relates to the issue of the \$1,000 of stock.

Wallace Rutherford, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing had before Examiner Fankhauser on June 28th, E. F. Gardner asks permission to transfer his operative rights and stage equipment to the Monticello Utility Corporation, which asks permission to acquire said properties and to issue \$16,000 of common capital stock for the purposes hereinafter stated.

It is of record that E. F. Gardner, by virtue of having operated stage and truck equipment prior to 1917, has a right to transfer passengers, freight, express and baggage between Monticello and Napa. By Decision No. 18381, dated May 18, 1927, in Application No. 13262, he was given permission to transport passengers, freight, express and baggage between Monticello and Winters via Camp North, Elston, County Line and Recreation Beach. E. F. Gardner asks permission to transfer such operative rights as he may now have, together with his stage and truck equipment, to the applicant, Monticello Utility Corporation.

In a statement filed in this proceeding he lists the properties which he asks permission to transfer to the corporation as follows:

One G. M. C. Model K-32 stage-----	\$1,500 00
Complete set hand shop tools-----	50 00
One furniture body -----	150 00
One flat rack body -----	150 00
One air compressor complete -----	150 00
Mail contract No. 76268, expiring June 30, 1930-----	2,000 00
Monticello-Winters Line, Decision No. 18381-----	1,000 00
Monticello-Napa Line (prior to 1917)-----	5,000 00
Total-----	\$10,000 00

In payment for the properties to which reference has been made Monticello Utility Corporation desires permission to issue \$10,000 of stock. The testimony shows that the value assigned to the stage is the amount which the General Motors Corporation has agreed to allow for the stage in connection with the purchase of two new stages to which reference will hereafter be made. The \$1,000 assigned as the value of the Monticello-Winters Line represents the amount expended by E. F. Gardner to acquire the rights to operate. In connection with the Monticello-Napa Line, E. F. Gardner represents that he has expended \$5,125 to acquire such lines and to protect his operative rights. Of this latter figure, however, it seems to us that a portion represents amounts against which the Commission can not authorize the issue of stock, and accordingly we believe that the Monticello Utility Corporation should be permitted to issue not exceeding \$9,000 to acquire the properties to which reference has been made.

The Monticello Utility Corporation intends to acquire two Model T-40 G. M. C. trucks fully equipped for stage operations. The cost of each truck fully equipped is reported at \$3,720. The equipment will have seating capacity for seven passengers and a loading space for two

tons. One of the trucks will be operated between Napa and Monticello; the other between Monticello and Winters. It is of record that the equipment will also be used to conduct nonutility business during such time as it is not needed in the utility business. The revenues and expenses of the Monticello Utility Corporation for one year are estimated as follows:

Operating revenue	\$11,800 00
Monticello and Winters	\$5,600 00
Monticello and Napa	6,200 00
Operating expenses including taxes and depreciation	7,380 00
Net operating revenue	\$4,420 00

During 1925 E. F. Gardner reports operating revenues at \$9,729.05 and for 1926 at \$7,081.20. The operating expenses for 1925 are reported at \$7,215.45 and for 1926 at \$5,479.60, leaving net revenue for 1925 of \$2,513.60 and for 1926, \$1,601.60.

The Monticello Utility Corporation was organized on or about February 11, 1927, with an authorized capital stock of \$50,000, divided into 500 shares of \$100 each. As stated, it asks permission to issue \$10,000 of this stock to acquire properties from E. F. Gardner.

It further asks permission to issue and sell at par for cash \$6,000 of stock to pay in part the cost of the two new units of equipment. E. F. Gardner, president of the company, testified that the stock would be sold for cash without the payment of any commissions.

ORDER.

E. F. Gardner having asked permission to transfer certain operating rights to the Monticello Utility Corporation, and the latter having asked permission to acquire such rights, together with other property, and issue not exceeding \$16,000 par value of its common capital stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the Monticello Utility Corporation should be permitted to issue \$15,000 par value of its common capital stock and that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant, Monticello Utility Corporation, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted as herein provided; therefore,

It is hereby ordered, that E. F. Gardner be and he is hereby authorized to sell and transfer to Monticello Utility Corporation, a corporation, the certificate of public convenience and necessity and other properties referred to in the foregoing opinion, and said Monticello Utility Corporation be and it is hereby authorized to issue in payment for such properties free and clear of all indebtedness \$9,000 par value of its common capital stock, and to issue and sell for cash at not less than

par \$6,000 par value of its common capital stock and use the proceeds to pay in part the cost of the two Model T-40 G. M. C. trucks fully equipped, referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall not be urged before this Commission or any other rate fixing body as representing the value of said properties for any purpose other than the transfer herein authorized.

2. Applicant E. F. Gardner shall immediately unite with applicant Monticello Utility Corporation, a corporation, in common supplement to the tariffs on file with the Commission, applicant E. F. Gardner on the one hand withdrawing, and applicant Monticello Utility Corporation, a corporation, on the other hand, accepting and establishing such tariffs, and all effective supplements thereto.

3. Applicant E. F. Gardner shall immediately withdraw all time schedules filed in his name with the Commission. Applicant Monticello Utility Corporation, a corporation, shall immediately file a duplicate in its own name, time schedules of service heretofore given by applicant E. F. Gardner, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant E. F. Gardner, or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicant Monticello Utility Corporation, a corporation, unless such vehicle is owned by said applicant, or is leased for a contract or agreement on a basis satisfactory to the Railroad Commission.

6. Applicant Monticello Utility Corporation, a corporation, shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file within thirty days after such issue, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the application in so far as it involves the issue of \$1,000 of stock be and it is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-first day of July, 1927.

Decision No. 18656.

IN THE MATTER OF THE APPLICATION OF FRESNO TRACTION COMPANY FOR AN ORDER PERMITTING IT TO INCREASE ITS RATE OF FARE UPON ITS STREET CAR LINES.

Application No. 12653.

Decided July 21, 1927.

RATES—STREET RAILWAY—TO INCREASE.—Applicant authorized to increase local fares from six cents to seven cents, and to issue tickets or tokens, for local rides, at the rate of three for twenty cents.

Everts, Ewing, Wild and Everts, by *D. S. Ewing* and *F. G. Everts*, for Applicant.
Loren A. Butts, City Attorney, for City of Fresno.

LOUTTIT, Commissioner.

OPINION.

In this application the Fresno Traction Company states that the existing rate of fare charged on its street railway system within the city of Fresno is insufficient to pay operating expenses, taxes and afford a reasonable return upon its capital investment, and requests that the Commission make an order increasing its rate of fare sufficiently to allow the company to earn a return of 8 per cent on the used and useful property devoted to public service in the city of Fresno.

A public hearing was held on this application at Fresno on October 25, 1926.

It appeared at the hearing that the company was operating over two lines for which no certificate of convenience and necessity had been issued by this Commission and the company was requested to make application for such a certificate. Accordingly the company filed Application No. 13371 and by the Commission's Decision No. 18065, dated March 14, 1927, certificate of convenience and necessity was issued authorizing the operation by the company of these two lines. After the issuance of this certificate the present application was submitted for consideration.

In its application and the statements attached thereto the company has given in detail a record of its revenue and expenses during the year 1925. It is alleged in the application that the present capital investment of the Fresno Traction Company is \$1,328,796.27. It is set forth in the company's exhibit that the operating loss, exclusive of any return on this investment during the year 1925, for its lines in the city of Fresno amounted to \$3,569.81 and by including a return on investment a deficit of \$110,280 occurred.

In addition to the statement of operations for the year ending December 31, 1925, attached to its application, the company also submitted exhibits showing its receipts and disbursements for other periods in general subsequent to December 31, 1925, and also exhibits containing

the franchises under which it operates. No detail setting forth the method used in the determination of the investment amount as stated above was submitted.

The Commission's engineers made a thorough investigation of the books and records of this utility. A report on the historical valuation was prepared and presented by J. G. Hunter, while the service, operation and financial condition was shown in a report prepared by J. E. Cooper and N. A. Wood.

No evidence tending to establish the reasonable investment or the present fair value of the properties of the railroad company was offered by the company. I am of the opinion that there is cast upon the utility seeking an increase of rates the burden of proving by competent evidence a true valuation of the properties involved upon which an interest return is expected.

The Commission's engineers, in their report on valuation submitted in this proceeding, made a thorough study of a valuation prepared in an earlier proceeding (Application No. 7705) and of the additions and betterments constructed subsequent to the date of that valuation, and it appears from the evidence submitted by the Commission's engineers that the present fair value of the Fresno Traction Company's local street car system in the city of Fresno, including the lines within the 6-cent fare zone, is not less than \$1,328,796.27, the amount alleged in its application in this proceeding, and it is recommended that this sum be accepted for the purposes of this proceeding as the rate base upon which shall be computed a return to the company.

The Fresno Traction Company renders both a local and interurban service. The local service consists of seven street car lines operated within the city or immediate vicinity, while the interurban service, which consists of two lines, is extended from the termini of two local lines several miles outside the city of Fresno. The basic fare on the local lines is 6 cents, while the interurban fare varies with the distance.

The Commission's engineers, in their study of operations, have adopted a different method of apportioning revenues and expenses between the city lines and the outside lines than that used by the company. Three of the local lines which are entirely within the 6-cent fare zone operate for short distances beyond the city limits, and since the 6-cent basic fare which applicant desires to increase applies to the ends of these lines, the Commission's engineers have considered them part of the local system.

The Traction Company in its allocation of its revenues and expenses has used a method based on the number of car miles operated. After determining that 87.9951 per cent of the total car mileage of the system was operated within the city limits of Fresno, it has credited city operations with this percentage of the system revenue and charged city

operations with a like percentage of the total operating expense. The two county lines operate through a sparsely settled territory and have but few patrons and from a table compiled from the company's records it appears that the revenue per car mile for these lines outside the city amounts to but \$0.0439, while that for lines within the city amounts to \$0.1674, or approximately four times as great, and that 99 per cent of the total system revenue is collected on the local lines. It therefore appears that the city's operation should be credited with a considerably larger proportion of the total revenue than that reflected by the company statement.

In the apportionment of operating expenses between city and county lines, the Commission's engineers have used a formula under which the charges to the two services are distributed according to the units with which they are directly affected, for instance, maintenance of equipment is apportioned according to the number of car miles operated, while track maintenance is divided according to the number of track miles maintained.

The records show that the net revenue received from the operation of the local system for the twelve months' period ending June 30, 1926, based on the allocation made by the Commission's engineers, was \$35,819.80, from which taxes amounting to \$18,606.47 should be deducted, leaving a net income of \$17,213.33.

The study of the Commission's engineers was extended to include operation and service rendered by this utility and in their report they have made certain recommendations with the view of effecting a saving in the cost of operation. These suggestions consist primarily of an increase in the headways of cars on certain lines during the periods of the day when travel is light and changes in the routing on several of the lines to effect a more evenly balanced service with a reduction in the number of car miles operated. These recommendations are assembled into a general plan of rerouting and changes in schedule and a forecast is made of the probable financial result of a year's operation under such a plan based on the assumption that no material change in revenue will result from either a change in business conditions or from a reduction in traffic because of changes in service. The net income under this plan is estimated at \$49,757.

It therefore appears that the net income of the company, based upon the service now rendered, and the rates now in effect, amounts to \$17,213.33, which amount would yield a return of 1.3 per cent on a rate base of \$1,328,796.27. However, if the recommendations of the Commission's engineers are put into effect it is concluded that the company may reasonably expect a net income of \$49,757. To carry out the recommendations of the Commission's engineers will involve additional expenditures in capital accounts estimated at \$36,900. Adding

this amount to the rate base of \$1,328,796.27, previously found, results in a total of \$1,365,696.27. The estimated income just stated would yield a return of 3.6 per cent on this rate base.

In my opinion neither the return from the service as it now exists with a 6-cent basic fare nor the return that may be expected if the recommendations of the Commission's engineers are carried out, is reasonable and, since it appears that no further saving in operating expenses can be realized without seriously impairing the service rendered, the only means of securing an adequate return for the company on its local system is by an increase in the fare.

It is doubtful that the service changes, if carried out, will greatly affect the revenue. The suggested reduction of service during the peak periods of travel in the morning and evening from that now in effect is negligible and some additional service is proposed during these hours. The principal reduction in service would occur during the slack periods in the middle of the day and even here the changes in headway are slight.

As to the effect an increase in fare will have on the volume of traffic, there is very little evidence in the record. Applicant introduced no direct testimony as to what, if any, deflection in travel could be expected and the only testimony in this respect is a statement of one of the Commission's engineers that there is usually some deflection due to increased rates, but that in the past where rates have been increased in this state many other factors have entered into the problem and that it has been impossible to fix any definite formula for estimating the falling off of traffic due to rate increases.

The changes in rerouting, schedules and service proposed by the Commission's engineers appear to be satisfactory to the city of Fresno and applicant at the hearing expressed a willingness to try the new plan. It is probable that if the fares are increased there will be, for a time at least, some small reduction in the amount of travel. No specific rate schedule is applied for in the application but I am of the opinion that if a 7-cent basic fare is charged and patrons given the privilege of purchasing tickets or tokens at the price of three for 20 cents, this company can earn a return of about 4 per cent. If, in addition, the plan of operation suggested by the Commission's engineers is put in effect, this rate of return may reasonably be expected to increase to approximately $6\frac{1}{4}$ per cent. It is therefore recommended that the Traction Company be authorized to increase the rate of fare on its local lines where a 6-cent fare is now in effect to 7 cents and required to sell tokens or tickets at the price mentioned, or three for 20 cents. The following form of order is recommended:

ORDER.

Fresno Traction Company having made application for an order granting it authority to increase the rate of fare upon its street car lines, a public hearing having been held and the Commission being apprised of the facts;

It is hereby ordered, that applicant be and it is hereby authorized to file with the Commission and put into effect within thirty days from the effective date of this order a schedule of rates increasing the present basic 6-cent fare to 7 cents to apply on all lines now operated either entirely in the city of Fresno or partly in the city of Fresno and partly in the unincorporated portion of the county of Fresno and within the present 6-cent fare zone and that tickets or tokens, unlimited as to time for use, and each entitling bearer to one ride within the limits of said zone, be offered for sale on the cars of said company at the rate of three tickets or tokens for 20 cents.

The effective date of this order shall be twenty days from the date hereof.

The Commission reserves the right to make such further orders in this proceeding as may seem necessary and desirable.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of July, 1927.

DECISION No. 18657.

UNION OIL COMPANY OF CALIFORNIA, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION, AND NORTHWEST-
ERN PACIFIC RAILROAD COMPANY, A CORPORATION.

Case No. 2234.

Decided July 21, 1927.

RATES—STEAM RAILROAD—FUEL OIL.—Complainant awarded reparation in the sum of \$51.08 on account of excessive and unreasonable charges for the transportation of fuel oil from Oleum to San Rafael, April 29 to August 25, 1920, same to be effective upon approval of Interstate Commerce Commission.

By THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the State of California, with its principal place of business at Los Angeles, is engaged in producing, refining and marketing petroleum and petroleum products.

By complaint filed April 19, 1926, and amended May 5, 1926, it is alleged that the rate charged on seven carloads of petroleum fuel oil moving from Oleum to San Rafael during the period April 29 to August 25, 1920, inclusive, was unreasonable to the extent it exceeded a rate of 11 cents. The statute of limitation was tolled by registering the complaint with this Commission under date of May 1, 1922, our informal complaint No. 24696. Reparation only is sought. Rates will be stated in cents per 100 pounds.

On October 18, 1926, the Commission filed its order of dismissal in the above entitled matter (28 C. R. C. 663), dismissing the proceeding without prejudice upon the conclusion that a state Commission had no authority under the provisions of section 208(a) of the Transportation Act to award reparation on shipments moving during the guaranty period, operative March 1 to August 31, 1920. This action was based upon the decision of the Supreme Court of the United States in *New York Central Railroad Company vs. New York and Penna.*, 271 U. S. 124, dated April 26, 1926.

This proceeding was reopened June 9, 1927, for the reasons fully set forth in our decision rendered this date in Case No. 2242.

The rate lawfully in effect at the time of shipment was 12 cents as published in Pacific Freight Tariff Bureau Tariff 16-D, C. R. C. 211 of F. W. Gomph, agent, item 1455. Charges were collected in the amount of \$643.42, which resulted in a straight overcharge of \$12 plus war tax, due to an erroneous weight being used on the car moving July 13, 1920. The overcharge should be immediately refunded.

At the time the shipments moved there was contemporaneously in effect a rate of 11 cents applicable on distillate from Oleum to San Rafael and it is complainant's contention that the concurrently effective rate on distillate, a refined oil product, should not exceed that applicable on fuel oil.

Subsequent to the date of movement defendants established, and now maintain, a rate of 11 cents on fuel oil from Oleum to San Rafael.

Defendants admit all of the allegations of the complaint and signify a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the assailed rate of 12 cents was unreasonable to the extent it exceeded 11 cents; that complainant made the shipments as described, paid and bore the charges thereon, and that it is entitled to reparation in the sum of \$51.08. This award is subject to the approval of the Interstate Commerce Commission under section 208(a) of the Transportation Act of 1920.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in this opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company and Northwestern Pacific Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Union Oil Company of California, reparation in the sum of \$51.08 account excessive and unreasonable charges for the transportation of seven carloads of fuel oil involved in this proceeding forwarded during the period from April 29 to August 25, 1920, inclusive, from Oleum to San Rafael.

It is hereby further ordered, that this order shall become effective only upon approval of the Interstate Commerce Commission under section 208(a) of the Transportation Act of 1920.

Dated at San Francisco, California, this twenty-first day of July, 1927.

DECISION No. 18658.

OCEAN PARK HEIGHTS LAND AND WATER COMPANY

vs.

SUBURBAN MUTUAL WATER COMPANY.

Case No. 2238.

Decided July 21, 1927.

SERVICE—WATER UTILITY—UNAUTHORIZED OPERATION.—The matters complained of having been adjusted by stipulation at a hearing before an examiner of the Commission the complaint is dismissed.

McAdoo, Neblett and O'Connor, by *W. H. Neblett*, for Complainant.
Maurice C. Sparling, for Defendant.

BY THE COMMISSION.

OPINION.

In this proceeding H. T. Robinson, doing business under the fictitious name and style of Ocean Park Heights Land and Water Company, operating a public utility water system supplying water for domestic and other purposes near the city of Venice, in Los Angeles County, has filed a complaint against the Suburban Mutual Water Company, a corporation, which is also engaged in the business of supplying water for domestic purposes, as a public utility, to consumers residing in tracts Nos. 6115, 7358 and 7135, in Los Angeles County.

The amended complaint in this proceeding alleges in effect that complainant is a public utility, supplying water for domestic purposes to

consumers in Los Angeles County within the territory covered by Ordinance No. 809 (new series) and Ordinance No. 860 (new series) of the board of supervisors of said county; that defendant, on or about May 4, 1926, without authority from the Railroad Commission, constructed a pipe line across Short avenue, thereby connecting its water system supplying Tract No. 6115 with the water mains which had heretofore been installed in the adjoining tracts No. 7358 and No. 7135; that said tracts No. 7358 and No. 7135 lie within the limits of the franchise as granted to complainant by the board of supervisors of Los Angeles County; that said pipe connection across Short avenue and extension of defendant's water system was made and is now being maintained wrongfully and in violation of the rights of complainant and without defendant having first obtained a certificate of public convenience and necessity or other authorization from the Railroad Commission; that complainant is now ready and willing to furnish adequate service from its own water system to said tracts No. 7358 and No. 7135 in accordance with the terms of its franchise and under the orders and direction of the Railroad Commission. The complaint requests that this Commission issue an order directing the defendant to remove all pipe lines connecting said Tract No. 6115 with said tracts No. 7358 and No. 7135, and also asks for further order perpetually restraining defendant from making any other or further connections between said tracts or any other tracts or parcels of land within the limits of the franchise of complainant.

Defendant, by way of answer, enters a general denial of all of the essential allegations of the complaint and asks that the complaint be dismissed.

Public hearings were held in this matter before Examiner Williams at Los Angeles after all interested parties had been duly notified thereof and given an opportunity to appear and be heard.

The complainant herein, Ocean Park Heights Land and Water Company, has been operating for many years as a public utility. Some time about the year 1911, the system was originally installed and operated by one Anna Del Segno, now the wife of the present owner, and supplied water for domestic and other purposes to consumers in Ocean Park Heights District near the city of Venice in Los Angeles County. Rates on this system were first established by the Commission in Decision No. 2065, dated January 13, 1915.

On January 2, 1923, complainant was granted a franchise by Ordinance No. 809 (new series) issued by the board of supervisors of Los Angeles County to construct and operate a water system in a rather large territory near Venice. This franchise was amended by Ordinance No. 860 (new series) passed April 23, 1923. The territory covered by the present franchise embraces the present existing serv-

ice area of the Ocean Park Heights Land and Water Company and tracts No. 6115, No. 7135 and No. 7358, involved herein, as well as considerable additional area as yet undeveloped. Although this utility has been before the Commission on a number of different proceedings, up to the time of submission of this case it had never applied for or been granted a certificate of public convenience and necessity. However, subsequent to the filing of this case, complainant herein made application to this Commission for authority to transfer its properties to a new corporation called Ocean Park Heights Water Company and, at the same time, another application was filed asking for a certificate of public convenience and necessity to furnish water throughout the entire area covered by his county franchises. Decision No. 17974, decided February 8, 1924, granted a certificate limited, however, to the exercise of the rights and privileges arising under the county franchises "only to the extent that it is necessary to construct, maintain and operate a water system for the purpose of selling water to consumers residing in tracts now served by said applicants" and therefore did not authorize this complainant to compete with other water plants by extending his system into tracts not served by him at that time.

About four years ago, defendant started in the business of installing and operating water systems to serve small real estate subdivisions and attempted to sell water under a form of corporate organization which it called a "business trust" and which it alleged was a mutual water company and not subject to the jurisdiction or control of the Railroad Commission. However, this Commission, in Case No. 2074, instituted on its own motion an investigation into the affairs of defendant, as a result of which it was declared to be operating a public utility, in Decision No. 16329, dated March 30, 1926, and, as such, was directed to file its rates, rules and regulations with the Commission. At the time of the above investigation, it was found that defendant had acquired and was operating six separate water plants serving different real estate tracts located in various sections of Los Angeles County; one of these plants supplied water in Tract No. 6115 mentioned above. Subsequent to the instituting of said investigation, but prior to the rendering of the decision therein, defendant entered into a contract with the T. W. Haas Realty Company of Los Angeles to take over and operate the water system installed by said company in tracts No. 7135 and No. 7358, located immediately north of Tract No. 6115. From the evidence in this case, it appears that the pipe lines and water mains of the systems serving these tracts had been installed before the tracts were recorded and the streets and alleys therein dedicated to the public, and no franchise was necessary for such construction. The realty company had not operated the system as a public utility previous to acqui-

sition by the defendant but had furnished water to consumers without charge.

Complainant contends that the extension by defendant of its public utility service into tracts No. 7135 and No. 7358 was illegal and unlawful by reason of the fact that defendant has never received a certificate of public convenience and necessity from this Commission to operate a public utility in said tracts; that defendant had no authority from the county of Los Angeles to lay and install water mains in Short avenue, which had to be crossed to connect the systems together, and that such acts constitute an unwarranted invasion of complainant's territory as covered by its franchise, which franchise area complainant has for a long time past held itself ready and willing to serve by extending its own water system whenever demand therefor arose.

From the evidence it is clear that complainant holds a county franchise embracing the entire area in question and that defendant has no such county permit. However, at the time tracts No. 7358 and No. 7135 were being subdivided and developed for marketing, complainant submitted to the tract owners a proposal covering the terms and conditions under which he would install the necessary mains and other water distributing facilities. This offer, however, was not accepted by the tract owners, and they installed their own water system to serve the tracts, which, as mentioned above, was subsequently acquired by defendant. As the pipe lines were installed prior to the dedication of the streets in the tracts to the public use, no franchise was required. It further appears that at the time the connection was made between the two systems across Short avenue said avenue was within the newly formed and incorporated city of Barnes and that written permission was obtained from the city authority of Barnes allowing the installation to be made.

As to the contention of complainant that defendant has extended its system to include service in tracts No. 7135 and No. 7358 without a certificate of public convenience and necessity from this Commission authorizing such extension, it should be noted that complainant itself has no such certificate. It is apparent, therefore, that, if there is any blame to attach from this standpoint, both complainant and defendant are equally negligent.

The matter of extensions is covered by section 50(a) which, in so far as is here pertinent, reads as follows:

"No * * * water corporation shall henceforth begin the construction of a * * * plant or system or of any extension of such * * * plant or system, without first having obtained from the Commission a certificate that the present or future public convenience and necessity require or will require such construction; *provided*, that this section shall not be construed to require any such corporation to secure such certificate for an extension within any city and county, or city or town within which it shall have theretofore lawfully commenced operations, or for an extension into territory either within

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or without a city and county, or city or town, contiguous to its street railroad, or line, plant, or system, and not theretofore served by a public utility of like character, or for an extension within or to territory already served by it, necessary in the ordinary course of its business; *and provided, further*, that if any public utility, in constructing or extending its line, plant, or system, shall interfere or be about to interfere with the operation of the line, plant, or system of any other public utility, already constructed, the Commission, on complaint of the public utility claiming to be injuriously affected, may, after hearing, make such order and prescribe such terms and conditions for the location of the lines, plants, or systems affected as to it may seem just and reasonable."

Although defendant had never applied for a certificate to operate a water system, it was in fact declared to be a public utility by formal order of this Commission, and was directed to file its rates, rules and regulations with the Commission. This order has been fully complied with, and it therefore appears to us that it is not necessary that the defendant apply for any certificate to cover its existing operations. Under these circumstances, the Commission would not be warranted in attempting at this time to issue an order designed to restrain defendant from future activities of a public utility nature in this territory. In this connection, it should be noted that a stipulation was entered into by and between the parties at the hearing in which it was agreed that defendant would not make further extensions in other tracts within the present franchise area of complainant without first applying to this Commission and receiving authority so to do.

From the foregoing we are of the opinion that the complaint should be dismissed.

ORDER.

H. T. Robinson, operating a water system under the fictitious name and style of Ocean Park Heights Land and Water Company, having filed complaint against Suburban Mutual Water Company, a corporation, alleging illegal and unlawful invasion of territory, public hearings having been held thereon, the matter having been submitted and the Commission being now fully informed thereon;

It is hereby ordered, that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-first day of July, 1927.

DECISION No. 18659.

UNION OIL COMPANY OF CALIFORNIA, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION, TIDEWATER
SOUTHERN RAILWAY COMPANY, A CORPORATION.

Case No. 2242.

Decided July 21, 1927.

RATES—STEAM RAILROAD—GASOLINE—SUBJECT TO APPROVAL OF INTERSTATE COMMERCE COMMISSION.—Defendants directed to refund \$27.31, as reparation on account of excessive rates, and to waive collection of undercharges in the sum of \$16.62, collected for the transportation of three carloads of gasoline from Ora and Coalinga to Aurora, from April 3 to April 26, 1920.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the State of California, with its principal place of business at Los Angeles, is engaged in producing, refining and marketing petroleum and petroleum products.

By complaint filed May 18, 1926, it is alleged that the rate charged on three carloads of gasoline moving from Ora and Coalinga to Aurora during the period April 3 to 26, 1920, was unreasonable to the extent it exceeded a rate of $41\frac{1}{2}$ cents per 100 pounds. The statute of limitation was tolled by registering the complaint with this Commission under date of October 17, 1921, our informal complaint file No. 19935.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

On October 18, 1926, this Commission filed its order of dismissal in the above entitled matter (28 C. R. C. 664), dismissing the proceeding without prejudice upon the conclusion that a state commission had no authority under the provisions of section 208(a) of the Transportation Act to award reparation on shipments moved during the guaranty period, operative March 1, 1920, to August 31, 1920. This action in dismissing the case was based upon the decision of the Supreme Court of the United States in *New York Central Railroad Company vs. New York and Pennsylvania Company*, 271 U. S. 124, decided April 26, 1926, which held in substance that a payment of reparation during the federal guaranty period could not be made upon an order of a state commission unless the award had first been approved by the Interstate Commerce Commission.

Following this decision of the Supreme Court the Interstate Commerce Commission instituted an investigation "In the matter of the authority of the Commission to approve after August 31, 1920, a reduction in rate or an award of reparation by state authority on intrastate traffic which moved during the period March 1 to August 31, 1920," and by decision rendered February 7, 1927, in *Ex parte* No. 88 (122 I. C. C. 443) said:

"Subject to certain exceptions not here pertinent, our jurisdiction over intrastate rates terminated on February 29, 1920, with the termination of federal control. On that date jurisdiction over such rates passed to the state authorities, subject to the sole limitation that no rates should be reduced prior to September 1, 1920, unless the reductions were approved by us. It appears, therefore, that we were, and are, without power to require reductions in rates or to award reparation on intrastate shipments during the guaranty period, and that the only order we can lawfully make as to such shipments is one of a permissive character." (448.)

The instant case, No. 2242, was reopened June 9, 1927, upon request of the complainants, for further consideration.

The shipments in question consisted of three carloads of gasoline moving on Coalinga waybill S. P. 14 of April 3, 1920, and Ora waybills S. P. 34 and 116 of April 6 and 26, 1920, respectively, consigned to complainant at Aurora, and aggregated a weight of 219,674 pounds. The rate lawfully applicable was $43\frac{1}{2}$ cents, made by a combination of 32 cents to Turlock and fifth class rate of 7 cents beyond, plus $4\frac{1}{2}$ cents as authorized by General Order No. 28 of the Director General, and resulted in a total charge of \$955.22, of which amount \$938.96 was collected and retained by the carriers, leaving an undercharge of \$16.62.

The rate of 32 cents applying from Ora or Coalinga to Turlock is found in S. P. Tariff 711-A, C. R. C. 2434, and the factor of 7 cents beyond in Tidewater Southern Tariff 3-D, C. R. C. 18.

Complainant bases its plea for reparation upon the grounds that prior to the movement of the shipments in question the factor via the Tidewater Southern Railway from Turlock to Aurora was 5 cents per 100 pounds fifth class by reason of the fact that the rate to Chastine, a more distant point, applied as maximum at Aurora. Immediately prior to the date of shipment the tariff carrying the Chastine rate was reissued and the station of Chastine was unintentionally dropped from the tariff, resulting in the rate of 7 cents to Standiford being applied as maximum at Aurora. On August 10, 1921, the fifth class rate of 5 cents plus the war-time increases was published in Tidewater Southern Tariff 3-D, C. R. C. 18, Supplement No. 2, from Turlock to Aurora.

Defendants admit all of the allegations of the complaint and signify a willingness to make reparation adjustment; therefore, under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record, we are of the opinion and find that the assailed rate of $43\frac{1}{2}$ cents was unreasonable to the extent it exceeded the subsequently established rate of $41\frac{1}{2}$ cents; that complainant made the shipments as described, paid and bore the charges thereon, and that it is entitled to reparation in the sum of \$27.31 and relief from the payment of the undercollection of \$16.62.

This award is subject to the approval of the Interstate Commerce Commission under section 208(a) of the Transportation Act of 1920.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company and

Tidewater Southern Railway Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Union Oil Company of California, reparation in the sum of \$27.31 and to waive the collection of undercharges in the sum of \$16.62 account excessive and unreasonable charges for the transportation of three carloads of gasoline involved in this proceeding, forwarded during the period from April 3 to April 26, 1920, inclusive, from Ora and Coalinga to Aurora.

It is hereby further ordered, that this order shall become effective only upon approval of the Interstate Commerce Commission under section 208(a) of the Transportation Act of 1920.

Dated at San Francisco, California, this twenty-first day of July, 1927.

DECISION No. 18660.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE REASONABLENESS OF THE RATES, CHARGES, PRACTICES, CONTRACTS, RULES, REGULATIONS, SCHEDULES AND CONDITIONS OF SERVICE, OR ANY OF THEM, OF THE WESTERN WATER COMPANY, A CORPORATION, OPERATING A WATER SYSTEM IN THE VICINITY OF TAFT, KERN COUNTY, CALIFORNIA.

Case No. 2256.

Decided July 21, 1927.

RATES — SERVICE — WATER UTILITY — COMMISSION'S INVESTIGATION — DOMESTIC USE.—Finding that the domestic rates do not provide sufficient water for the price paid, the Commission orders an adjustment made to eliminate discrimination against domestic users.

Chickering and Gregory, by *Allen L. Chickering* and *Walter C. Fox*, for Western Water Company.

Coker F. Rathbone, City Attorney, for the City of Taft.

WHITSELL, Commissioner.

OPINION.

In this proceeding, the Commission has instituted on its own motion an investigation of the reasonableness of the rates, charges, practices, contracts, rules, regulations and conditions of service of the Western Water Company, a corporation, which operates a public utility water system in and in the vicinity of Taft, Kern County, California.

Public hearings in this matter were held at Taft, after all interested parties had been notified and given an opportunity to appear and be heard.

The Western Water Company serves an area which includes Elk Hills, Buena Vista, Maricopa Flat, Midway and Sunset oil fields, and also includes the towns of Taft and Ford City. This company has installed facilities that practically cover the entire oil fields, although

there are a few small public utilities and certain of the larger oil companies operating water systems in various sections of the oil fields.

The rates now in effect were established by this Commission in its Decision No. 12004, dated May 2, 1923 (23 C. R. C. 389), and are as follows:

Monthly Minimum Charges.

Domestic consumers in Taft and South Taft (retail lines) -----	\$1 50
Domestic consumers on wholesale lines -----	2 50
Industrial consumers on wholesale lines -----	10 00

Monthly Meter Rates—Domestic Service.

First 500 cubic feet, per 100 cubic feet -----	0 60
Over 500 cubic feet, per 100 cubic feet -----	0 50

Monthly Meter Rates—Industrial Service.

First 30,000 barrels, per barrel -----	0 0275
Next 70,000 barrels, per barrel -----	0 020
Over 100,000 barrels, per barrel -----	0 015

Rates for Fire Service in the City of Taft.

For all water supplied for fire purposes:

Per barrel -----	0 0275
Per 100 cubic feet -----	0 49
Minimum monthly charge for fire purposes for each hydrant or connection --	1 00

Water is obtained from wells located on the Kern River bottom east of Elk Hills and conveyed through about 18,000 lineal feet of 30-inch riveted steel pipe to the first booster plant. This plant lifts the water through about twelve and one-half miles of 12 and 16-inch transmission mains at a working pressure of about 450 pounds per square inch to the Taft pumping plant, and also delivers water to the Elk Hills area at a pumping pressure of 530 pounds per square inch. Water for use in Taft and areas above the elevation of the city is again lifted to two 55,000-barrel steel tanks at a working pressure of about 400 pounds per square inch. There are three other pump stations on the system, which are operated during periods of heavy draft, two of which boost water from the main transmission line to the old fields south of Taft, and one plant supplies a small area at the north end of the Midway old field.

The distribution and transmission system consists of about 533,000 lineal feet of pipe, varying from 2 to 30 inches in diameter. There are about 3900 service connections and all of the water sold is measured. During 1925, about 91 per cent of the water sold was for industrial use in the old fields and the remaining 9 per cent was sold for domestic use in the towns of Taft and Ford City. Water is also sold in wholesale quantities for redistribution in Fellows and other small communities located on the transmission lines.

At the hearings William Stava, one of the Commission's hydraulic engineers, presented reports based on a thorough field and office investi-

gation of the company's water system and operations. These reports showed an analysis of the company's operating accounts for the years 1923, 1924, 1925 and 1926, and also set out the fixed capital installed for each year, as shown by the company's books, as well as the fixed capital installed, based on the findings of the Commission in its Decision No. 12004, dated May 2, 1923, brought up to date by net additions and betterments. The analysis of the operating expenses showed that the company had included therein many items that more properly should have been charged to capital accounts. These items were deducted and added to the fixed capital.

The results of operation for the four years, based upon the average capital installed and using the revised operating and maintenance figures referred to above, together with the depreciation allowance as carried on the company's records, were as follows:

	1923	1924	1925	1926
Revenues -----	\$508,362	\$634,342	\$743,960	\$702,211
Corrected M. and O. expense ----	277,178	297,999	342,551	350,453
Depreciation -----	66,510	74,594	82,212	89,418
Total expense -----	343,688	372,593	424,763	439,871
Net revenue -----	164,674	261,749	319,197	262,340
Average capital installed -----	1,308,300	1,441,947	1,608,959	1,940,953
Net return -----	12.6%	18.1%	19.8%	13.5%

The above capital installed does not include material and supplies or any allowance for working capital or going concern. Allowing the sum of \$100,000 to cover materials and supplies and working capital would reduce the above return to the following:

1923	1924	1925	1926
11.7%	16.9%	18.7%	12.9%

The evidence shows that the allowance for depreciation of the physical property has been computed at rates varying from 10 per cent to 5 per cent per annum, which is equivalent to a life of from 8½ to 14 years, if the depreciation annuity is computed on a 5 per cent sinking fund basis. According to the testimony, the average life of the various facilities of a water system operating under normal conditions is approximately 25 years. The high rate of depreciation has been maintained by this utility to cover the somewhat severe soil conditions obtaining in many parts of the area served and also, to a considerable extent, to cover what it claims to be the uncertainty of the continued demand for water in the oil fields. The depreciation reserve from the company's records, as of December, 1926, shows a total of \$713,684.33, as compared to the average capital installed for 1926 of \$1,940,953.

C. I. Rhodes presented a report for the company giving the fixed capital installed, as of December 31, 1926, as \$1,933,794.96, to which was added capital adjustments from operating expenses, an additional allowance for organization expenses, working capital interest during

construction, and cost of developing the source of water supply, making a total rate base of \$2,152,619.41. The depreciation annuity set up by the company for the year 1926 was given as \$89,418.36, and an annuity was also estimated on a 5 per cent sinking fund basis for the same property, amounting to \$90,947.83. The replacement annuity to cover the adjusted rate base amounted to \$98,170.

The operating expenses for 1926 were estimated by Rhodes to be \$357,855, resulting in the operations for 1926 producing a net return of 11.4 per cent on the estimated rate base of \$2,152,619.41. The company's engineer estimated that the necessary additions and betterments to capital for 1927 would result in increasing the above rate base to \$2,220,826, upon which he further estimated that a net return of 8.3 per cent should be realized for 1927, giving due consideration to his estimated probable loss of business for the remaining part of the year.

Considerable testimony was offered by the engineers for the company and the Commission relative to the probable loss of future revenues which will occur because some of the oil companies, large users of water, have installed their own facilities to supply water to their properties. The utility contends that its future earning power is seriously affected by the curtailed use of water by the Pan American Petroleum Company in the Elk Hills area, through the recent action of the federal government in canceling the lease of the properties, and also claims that a possible further reduction in oil field operations is in immediate prospect generally throughout the field because of a present alleged overproduction of oil, with a consequent reduction in demands for water.

The evidence shows that the Standard Oil Company maintains and operates a complete water system to supply its properties and plants in the oil fields and only buys water from the Western Water Company at a few isolated points not reached by its own system. Recently the Standard Oil Company acquired the entire holdings of the Pacific Oil Company, which was one of the largest consumers of the Western Water Company, and is now extending its own water system to supply the properties of this consumer, resulting in a very material reduction in revenues to the utility.

The Honolulu Oil Company, in connection with the Pacific Gasoline Company, has incorporated the Honolulu Pacific Company which has installed an independent and private water system to serve both properties. These two companies are, at present, users of large quantities of water from the Western Water Company.

The Standard Oil Company has also acquired the Pacific Gasoline Company, together with the latter's holdings in the Honolulu Pacific Company's water system.

A comparison of the gross revenues for the years of 1925 and 1926

shows a decrease in revenues of \$50,744, which was largely due to the restricted use of water by the Honolulu Oil Company and the Pacific Gasoline Company. In the first three months of 1927, the utility received a gross revenue of \$129,857.98, which is a decrease of \$32,672.43 over the first three months of 1926. While the testimony and figures showing the actual and probable loss of business for 1926 and 1927 indicate that the Western Water Company will not realize the revenues for the year 1927 that it has in each of the last three or four years, yet it is extremely improbable that the revenues will decline to such an extent that they will fail to produce a reasonable return on the investment.

Unquestionably this utility has in the past received in excess of a fair rate of return upon its investment when measured by any reasonable standard of depreciation. However, the evidence clearly shows that the revenues formerly received from industrial service have very seriously declined during the latter part of 1926 and the first part of 1927 and, by reason of the present unsettled conditions in the oil fields, a reduction in the rates for industrial service is not warranted at this time.

A number of consumers appeared at the hearing and requested the Commission to adjust the rates for the sales of domestic water in the Taft and Ford City areas to provide the consumers with more water at a price that will allow the planting of lawns, flowers and gardens about their homes, which now is not possible under the existing rates for such service. The charges for water in Taft and Ford City are not upon the same basis, although the cities are now adjoining, and it is requested that these rates be equalized.

The testimony shows that Ford City is immediately adjacent to the city of Taft and, as a matter of fact, the two cities may be considered as one community. When the rates now in effect were established, Ford City was more or less of a tent colony with no certainty as to future permanency and the rates applied were those charged in undeveloped domestic territory. Ford City is now a well settled and permanent community and there no longer exists any necessity for a rate different from that charged to the consumers residing in Taft.

The area which this utility serves with water is somewhat arid and there is no adequate local supply that will produce a potable water. These conditions have made it necessary to bring in water from a considerable distance through long transmission mains and, because of the rolling nature of the country, it is also necessary to lift the water at least twice by high duty pumps after bringing the water to the surface at the wells. The magnitude of this water system has been determined primarily by the demands for large quantities of water for oil operations throughout the area served, as is indicated by the

fact that approximately 91 per cent of the revenue is derived from this class of wholesale use. Although it is equally true that the domestic service now rendered could not be maintained at its present cost and standard, except for the large deliveries for industrial purposes, it is apparent from the evidence that the domestic rates do not provide sufficient water for the price paid and that there should be an adjustment made therein to eliminate this inequality and to remove certain discrimination now existing in the application of the charges for domestic use.

The following form of order is recommended:

ORDER.

The Railroad Commission having instituted an investigation on its own motion into the reasonableness of the rates, practices, contracts, rules, regulations and conditions of the service of the Western Water Company, a corporation, public hearings having been held thereon and the Commission being fully informed in the matter;

It is hereby found as a fact that the rates charged by the Western Water Company, a corporation, for water delivered to its consumers in Kern County, in so far as they differ from the rates herein established, are unjust and unreasonable and that the rates herein established are just and reasonable rates for such service.

And basing the order upon the foregoing findings of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that the Western Water Company, a corporation, be and the same is hereby authorized and directed to file with this Commission, within thirty days from the date of this order, the following schedule of rates to be charged for water delivery to its consumers on and after the first day of August, 1927:

Monthly Minimum Charges.

Domestic consumers in Taft, South Taft and Ford City (retail lines)-----	\$1 50
Domestic consumers on wholesale lines-----	2 50
Industrial consumers on wholesale lines-----	10 00

Monthly Meter Rates—Domestic Service.

First 400 cubic feet-----	1 50
Over 400 cubic feet, per 100 cubic feet-----	0 35

Monthly Meter Rates—Industrial Service.

First 30,000 barrels, per barrel-----	0 0275
Next 70,000 barrels, per barrel-----	0 02
Over 100,000 barrels, per barrel-----	0 015

Rates for Fire Service in the City of Taft and Ford City.

For all water supplied for fire purposes:

Per barrel -----	0 0275
Per 100 cubic feet-----	0 49
Minimum monthly charge for fire purposes for each hydrant or connection--	1 00

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of July, 1927.

DECISION No. 18661.

PIONEER COMPOST COMPANY

vs.

SOUTHERN PACIFIC COMPANY AND VISALIA ELECTRIC RAILROAD COMPANY.

Case No. 2370.

Decided July 21, 1927.

RATES—RAILROAD—MINERAL COMPOST.—Complainant awarded reparation on two carloads of mineral compost moving from Terminus to Guadalupe and Mountain View on account of excessive and unreasonable charges collected by defendants.

BY THE COMMISSION.

OPINION.

Complainant, a copartnership doing business under the fictitious name of the Pioneer Compost Company, is engaged in producing and marketing mineral compost at Terminus, California.

By complaint filed May 25, 1927, and amended June 27, 1927, it is alleged that the rates charged on one carload of mineral compost moving from Terminus to Guadalupe on October 10, 1925, and on one carload of the same commodity moving from Terminus to Mountain View on October 24, 1925, were unreasonable to the extent they exceeded 19 cents per 100 pounds to Guadalupe and 14½ cents per 100 pounds to Mountain View.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

Terminus is located on the Visalia Electric Railway Company and Guadalupe and Mountain View on the Southern Pacific Company. The lawfully applicable rate to Guadalupe was 27½ cents, made by a combination of commodity and class rates over Templeton, the factor from Terminus to Templeton being 18½ cents and from Templeton to destination 9 cents. The applicable rate to Mountain View was 18 cents, a combination of commodity and class rates over San Jose, using 14½ cents from origin to San Jose and 3½ cents beyond. The rates to the basing points are found in Pacific Freight Tariff Bureau Tariff 97-I, C. R. C. 65 of F. W. Gompf, agent, and the factors beyond

in Southern Pacific Company's Tariff 711-C, C. R. C. 2843. Effective December 17, 1925, defendants voluntarily established a rate of 14½ cents from Terminus to Mountain View, and on September 1, 1926, a rate of 19 cents from Terminus to Guadalupe, these rates being those here sought by complainant.

Complainant bases its plea for reparation upon the lower rates subsequently established. Defendants admit the allegation of complainant, and have signified a willingness to make a reparation adjustment in the sum of \$79, the amount prayed for without interest; therefore, under the issues as they now stand, a formal hearing will not be necessary.

Upon consideration of all the facts of record, we are of the opinion and find that the assailed rate of 27½ cents from Terminus to Guadalupe was unreasonable to the extent it exceeded the subsequently established rate of 19 cents and that the assailed rate of 18 cents from Terminus to Mountain View was unreasonable to the extent it exceeded the subsequently established rate of 14½ cents; that complainant made the shipments as described, paid and bore the charges thereon, and that it is entitled to reparation in the sum of \$79.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company and Visalia Electric Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Pioneer Compost Company of San Francisco, California, reparation in the sum of \$79 account excessive and unreasonable charges for the transportation of two carloads of mineral compost involved in this proceeding, forwarded during the month of October, 1925, from Terminus to Guadalupe and Mountain View.

Dated at San Francisco, California, this twenty-first day of July, 1927.

DECISION No. 18662.

IN THE MATTER OF THE APPLICATION OF MATTIE L. GOODWIN AND GRACE WEBB, COPARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF QUINCY WATER WORKS, FOR AN ORDER INCREASING THE RATES TO BE CHARGED FOR SERVICE AT QUINCY, PLUMAS COUNTY, CALIFORNIA, AND ESTABLISHING A SCHEDULE OF RATES AS SO INCREASED.

Application No. 12753.

IN THE MATTER OF THE APPLICATION OF MATTIE L. GOODWIN AND GRACE WEBB, COPARTNERS DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF QUINCY WATER WORKS, FOR A DECISION OF THE QUESTION WHETHER CERTAIN PERSONS IN QUINCY, CALIFORNIA, NOW AND HERETOFORE HAVING FREE WATER SERVICE ARE ENTITLED TO THE CONTINUANCE OF SUCH SERVICE.

Application No. 13012.

Decided July 21, 1927.

RATES—WATER UTILITY—TO INCREASE—REHEARING.—Rates established in Decision No. 18022 modified to provide the necessary increased revenues to compensate the utility properly.

U. S. Webb and M. C. Kerr, for Applicants.

J. D. McLaughlin, for certain Protestants in Application No. 12753.

L. H. Hughes, for C. J. Lee and Meryle Robertson, Protestants in Application No. 13012; also Mr. Stevens.

H. D. Wolfe, for Yien Joe, L. P. Morri, Dr. R. Stewart and the Quincy Fire District.

LOUTTIT, Commissioner.

OPINION ON REHEARING.

Mattie L. Goodwin and Grace Webb, copartners under the fictitious firm name and style of Quincy Water Works, operating a public utility water system supplying consumers in and in the vicinity of the town of Quincy in Plumas County, applied to this Commission for authority to increase water rates and for the determination by the Commission of the public utility status of certain rights claimed by some of their consumers to perpetual free water service. After public hearings had been held thereon, these matters were submitted and the Commission on the twenty-third day of February, 1927, issued its Decision No. 18022, wherein an increased schedule of rates was established and the Quincy Water Works was authorized to discontinue its practice of serving water free of charge to certain of those consumers who claimed such rights. Thereafter, on the seventh day of March, 1927, applicants filed a petition for rehearing in the above entitled proceedings, which was granted by order of the Commission, dated March 30, 1927, and a further public hearing was held thereon for the purpose of receiving additional evidence.

The petition for rehearing alleges in effect that, although the Quincy Fire District agreed to pay for the costs of constructing the fire reservoir with appurtenant facilities and fixtures, the title to the structures and facilities so installed is vested in the Quincy Water Works and the reservoir itself is located upon land owned by said water works and that, therefore, this Commission was not justified in excluding from the rate base the sum of \$5,400 which is the actual cost of construction and installation of said facilities.

In connection with water rights the petition alleges in effect that the rates heretofore in effect, as established by this Commission in its Decision No. 9811, dated November 23, 1921, were based upon the valuation of the physical properties made by one of the Commission's engineers, to which the sum of \$4,000 was added for the then existing water rights, making a total amount of \$14,354; that in the report of the Commission's engineer, D. H. Harroun, submitted in connection with this proceeding, no value of the original water and water rights was included in his appraisal of the property and that therefore this utility should be entitled to an additional amount of \$6,000 to cover water rights not otherwise provided for in the rate base as established.

It is further alleged in effect that the rate as established by the Commission in its Decision No. 18022 set forth the monthly charge for the Plumas County courthouse and grounds at \$20 and for the Plumas County high school at \$15 per month, whereas an agreement has been entered into heretofore by and between the water works and the county board of supervisors increasing this charge to \$28 per month for the courthouse and grounds, and that a similar agreement has likewise been entered into with the school board for the payment of \$19 per month for service to said high school property and grounds. The Commission is therefore requested to authorize these agreed rates for the service to the courthouse and the high school.

In the decision now under review, the Commission excluded from the rate base the appraised value of the fire reservoir, connecting pipe lines and fire hydrants, upon the ground that the cost of installing these facilities, and the maintenance thereof for a period of 50 years, was to be borne by the Quincy Fire District in accordance with the terms of an agreement entered into by and between the said district and applicants herein. From the evidence presented upon rehearing of this matter, it now appears that the reservoir and connecting pipe line belong to and are the property of the water works. Upon this basis, the utility is entitled to have the sum of \$5,400, covering these items, included in the rate base as a part of the value of the properties devoted to the public use, together with a corresponding increase of \$26 in the depreciation annuity.

In connection with the question of water rights, the record shows that the Commission in its Decision No. 9811, dated November 23, 1921, established the value of the water rights for rate fixing purposes at \$4,000 over and above the value of the physical properties. In Decision No. 18022 the Commission, in addition to the \$4,000 referred to above, allowed this company the sum of \$8,150 for the water rights subsequently acquired in Boyle Ravine. This latter amount represents the cost of acquiring in 1924 the Boyle Ranch property necessary in

order to gain control of certain appurtenant rights to water in Boyle Ravine. Although this ranch contains approximately ninety-six acres of land, a small part of which is susceptible to cultivation, and includes also to some slight extent timber of commercial value, the entire amount of the purchase price was included in the value of the water rights of this utility, making a total allowance of \$12,150 for this item in Decision No. 18022. Although applicant complains that he is entitled to an additional allowance of \$6,000 for water rights, the record fails to disclose sufficient evidence to justify such a finding and it appears to the Commission that the sum of \$12,150 heretofore found as the value for the water rights of this utility is fair and reasonable for the purposes of this proceeding.

From the evidence, it appears that about a year ago the Quincy Water Works entered into an agreement with the board of supervisors of Plumas County, wherein the rate of \$20 per month for service to the courthouse and grounds was increased to \$28 per month and in a like manner an agreement was entered into with the school board to increase the rate for service rendered to the high school and grounds from \$15 per month to \$19 per month. In accordance therewith, the rates charged for the service rendered to the courthouse and high school have been based upon the increases mutually agreed upon. However, these changes were never filed with or approved by the Railroad Commission and the rates as established in the Order and Decision No. 18022 were accordingly based upon the rates as heretofore established by the Commission. In view of the fact that the courthouse and high school grounds have been greatly improved by the extension and enlargement of the lawns and gardens, it is apparent that the rates heretofore established by the Commission no longer adequately compensate the utility for the additional service now being rendered and therefore the rates as fixed by agreement will be authorized in the following order.

No question was raised in the petition for rehearing as to the findings of the Commission in connection with the status of the rights claimed by certain consumers to free water service in Application No. 13012.

In view of the conclusions, as heretofore set out, the schedule of rates established by the Commission in Decision No. 18022 will be modified to provide the necessary increased revenues.

The following form of order is hereby submitted:

ORDER.

Mattie L. Goodwin and Grace Webb, copartners doing business under the fictitious firm name and style of Quincy Water Works, having filed a petition for rehearing in the above entitled matter, a rehearing therein having been granted, a public hearing having been held thereon

and the matter having been submitted and being now ready for decision;

It is hereby found as a fact that the rates and charges of the Quincy Water Works for water delivered to consumers in the town of Quincy, in so far as they differ from the rates herein established, are unjust and unreasonable and that the rates and charges herein established are just and reasonable rates to be charged for such service.

And basing the order upon the foregoing findings of fact and upon the statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Quincy Water Works be and it is hereby authorized and directed to file with this Commission, within thirty days from the date of this order, the following schedule of rates, such rates to be charged for all service rendered subsequent to July 31, 1927:

Monthly Flat Rate Schedule.

1. Residences, boarding houses, flats, lodging houses, apartments of five rooms and less -----	\$1 35
For each additional room -----	10
Additional for each bathtub -----	25
Additional for each toilet -----	25
Additional for each private garage and one automobile -----	25
Additional for each private barn and one head of stock -----	25
Additional for each automobile or head of stock over one -----	20
2. Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when taken continuously throughout year, per 100 square feet -----	03
Sprinkling or irrigation of lawns, gardens, shrubbery, etc., when not taken continuously, per 100 square feet during month water is actually used -----	07
3. Blacksmith shops, machine shops, lumber yards, printing offices, bakeries, undertaking parlors, grocery stores, theaters, warehouses, meat markets, drug stores, billiard parlors -----	1 50
4. Ice cream parlors, soda fountains and saloons, either alone or in connection with other business -----	1 50
5. Banks, professional offices, fraternal halls, club rooms, shoe shops, stores and offices not otherwise listed -----	1 25
6. Restaurants, lunch counters, per unit of seating capacity -----	10
Minimum charge -----	2 00
7. Barber shops, per chair -----	1 00
Additional for each bathtub -----	1 00
8. Laundries, according to use -----	3 00 to 5 00
9. Railroad use, water motors, schools, according to use -----	5 00 to 8 00
10. Hotels:	
Dining room -----	2 50
Bedrooms, each -----	10
11. Public garages, five automobiles or less -----	2 50
For each additional automobile over five -----	25
12. Stables and feed yards, per average number of stock fed per month, each -----	25
Private barn or garage, in connection with stores, hotels, etc., for each automobile or head of stock -----	25
13. Additional for each bathtub, toilet and urinal in 3 to 12, inclusive -----	25
14. Plumas County courthouse -----	28 00
15. Plumas County high school -----	19 00
16. Minimum monthly charge for each service connection -----	1 25
17. Fire hydrants, subject to agreement by and between Quincy Fire District and Quincy Water Works.	

It is hereby further ordered, that Mattie L. Goodwin and Grace Webb, doing business under the fictitious firm name and style of Quincy Water Works, be and they are hereby directed to file with the Railroad Commission, within thirty days from the date of this order, revised rules and regulations to govern the distribution of water to consumers, said rules and regulations to become effective upon acceptance for filing by this Commission.

It is hereby further ordered, that, except as modified herein, Decision No. 18022, dated the twenty-third day of February, 1927, shall remain in full force and effect.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-first day of July, 1927.

DECISION No. 18683.

IN THE MATTER OF THE APPLICATION OF THE WESTERN PACIFIC RAILROAD COMPANY TO OPERATE A SPUR TRACK ALONG GILBERT STREET IN THE CITY OF SAN FRANCISCO, WITH IMPAIRED CLEARANCE.

Application No. 13681.

Decided August 4, 1927.

GRADE CROSSING—SPUR TRACK—IMPAIRED CLEARANCES.—Applicant directed to cease operation over Gilbert Street spur track, and not to resume such operation until all impaired side clearances on easterly side of said spur will have been corrected to conform to standards prescribed in Commission's General Order No. 26-c.

Jas. S. Moore Jr., for Applicant.

Harry See, State Legislative Representative, Brotherhood Railroad Trainmen, Protestant.

G. F. Irvine, State Legislative Representative, Brotherhood of Locomotive Firemen and Enginemen, Protestant.

BY THE COMMISSION.

OPINION.

The Western Pacific Railroad Company, a corporation, has petitioned the Railroad Commission for an order authorizing said petitioner to conduct operation over a certain spur track located on the easterly side of Gilbert street, between Bryant and Brannan streets, in the city and county of San Francisco, certain structures adjacent to said spur track constituting an impairment of the standard clearance as prescribed by this Commission in its General Orders Nos. 26-a and 26-c.

A public hearing on this application was conducted by Examiner Handford at San Francisco; the matter was duly submitted and is now ready for decision.

Applicant alleges, as justification for the granting of the application, that the spur track herein proposed to be operated with impaired clearance is located upon and along the easterly side of Gilbert street, between Bryant and Brannan streets, in the city and county of San Francisco; that said track was constructed in accordance with the authority granted by Ordinance No. 6862, new series, of the board of supervisors of the city and county of San Francisco; that certain structures located on the easterly side of said Gilbert street impair the horizontal and vertical clearances as prescribed by the Commission's General Orders Nos. 26-a and 26-c; that the location of the spur track on said Gilbert street is as prescribed in the permit granted by ordinance of the city and county of San Francisco and can not reasonably be changed; and that the existing impaired clearance can reasonably be expected to be removed within a comparatively short time in that the property upon which the structures presenting impaired clearance is changing from a residential to an industrial character and the traffic now operated over the spur track is relatively light. Applicant further alleges, that in its opinion, the track can be safely operated by requiring its trainmen to work on the side of cars opposite the impaired clearances and by cautioning trainmen and enginemen of the existence of said impaired clearances by bulletin.

E. P. Peterson, assistant engineer for applicant, testified that the spur track on Gilbert street was a girder rail construction in a paved street, the track being located 10 feet from the property line as authorized by the city ordinance; that impaired clearance existed by reason of bay windows projecting from the second story of buildings located at Nos. 67 and 69 Gilbert street and from the Gilbert street side of the building located at No. 879 Bryant street, the minimum distance of these obstructions from the center of the track being 7.1, 7.2 and 6.3 feet at heights of 9.1, and 8.62 and 12.31 feet above the top of rail; that the spur track was constructed as a part of an installation of industrial track facilities to serve a proposed industrial district, the track having been finally completed during the present year; that the cost of constructing the track from the switch point in the Brannan street lead to its terminus at the south line of Bryant street was \$13,500; and that no cars have been placed on the track for industries nor are there industries now located adjacent to the track which require service. Witness was of the opinion that the track could be safely operated by the issuance of bulletins to train and engine crews directing their attention to the impaired clearance and requiring trainmen to work on the street side of the track.

N. A. Wood, assistant engineer in the Commission's Transportation Division, testified regarding measurements taken of the impaired clearances, the most serious encroachment on the standard clearance being bay windows which at a height of 9 feet 8 inches above the top of rail were but 6 feet 6 inches from the center line of track.

The Brotherhood of Railroad Trainmen and the Brotherhood of Locomotive Firemen and Enginemen protest the granting of the application and through their representatives voiced their objection to the hazardous condition and the caring for same by bulletin order.

The standard clearance prescribed by the Commission in its General Order No. 26-c, as approved March 28, 1927, and effective April 1, 1927, provides under section 2, subdivision (a), item 1, as follows:

All structures, * * *, minimum side clearance from center line of track, 8 feet 6 inches,

and under section 2, subdivision (e) as follows:

Minimum clearances authorized in this section are applicable only to tracks on which freight cars having a maximum overall width not greater than ten (10) feet eight (8) inches are transported. On tracks over which freight cars of greater width are transported or proposed to be transported, such minimum side clearances shall be increased not less than one-half of such additional width.

From the record and exhibits herein, it appears that the minimum side clearance is but 6 feet 6 inches from the center line of track or 2 feet less than the standard clearance for freight cars of a width of 10 feet 8 inches, and that such clearance presents an unwarranted hazard of accident to train and enginemen operating over this spur track.

We are of the opinion and hereby find as a fact that the operation of the spur track of applicant on Gilbert street, between Brannan and Bryant streets, in the city and county of San Francisco, presents an unreasonable hazard of accident by reason of unauthorized impaired clearances and that said track should not be used for the operation of engines or cars until standard clearance will have been established in accordance with the following order.

ORDER.

A public hearing having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that the application of The Western Pacific Railroad Company to operate a spur track along Gilbert street in the city of San Francisco, with impaired clearance, be and it is hereby denied.

It is hereby further ordered, that applicant, The Western Pacific Railroad Company, a corporation, be and the same hereby is directed to cease all operation of engines, cars or trains over the spur track known as the Gilbert street spur, located on said Gilbert street between Bryant and Brannan streets in the city and county of San Francisco, and not to resume such operations until all side clearances on the easterly side of said Gilbert street spur will have been corrected to conform to the standards prescribed in this Commission's General Order No. 26-c, as effective April 1, 1927.

The Commission reserves the right to make such other and further orders in this proceeding as to it may appear just and proper, or as may be necessary to eliminate hazard of accident and insure safety of operation on said Gilbert street spur.

Dated at San Francisco, California, this fourth day of August, 1927.

DECISION No. 18684.

IN THE MATTER OF THE APPLICATION OF TRACY GAS COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO FURNISH GAS TO THE CITY OF TRACY, SAN JOAQUIN COUNTY, AND FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ONE HUNDRED THOUSAND DOLLARS OF ITS CAPITAL STOCK AND ONE HUNDRED THOUSAND DOLLARS OF ITS FIRST MORTGAGE BONDS TO FINANCE SUCH CONTEMPORATED IMPROVEMENTS.

Application No. 13295.

Decided August 4, 1927.

CERTIFICATE—GAS UTILITY—FRANCHISE RIGHTS—To EXERCISE.—Supplemental order authorizing applicant to exercise franchise rights in the city of Tracy. BONDS—To ISSUE AND SELL.—Applicant authorized to issue and sell at not less than 92½ per cent of face value, plus accrued interest, \$100,000 of first mortgage 6 per cent 20-year bonds and to execute a mortgage securing payment of same.

ADDITIONAL STOCK—To ISSUE.—Application for authority to issue \$25,000 additional stock denied.

Rufus H. Kimball, for Applicant.

N. R. Sutherland, for Pacific Gas and Electric Company and Western States Gas and Electric Company.

BY THE COMMISSION.

SUPPLEMENTAL OPINION.

Tracy Gas Company requests permission to exercise the rights and privileges granted it by Ordinance No. 114 of the city of Tracy, and by Ordinance No. 381 of the county of San Joaquin, to issue additional stock (\$25,000), to exercise a mortgage and/or deed of trust, and to issue and sell at 90 and accrued interest \$100,000 of 6 per cent 20-year bonds, and expend proceeds obtained from the sale of stock and bonds.

By Decision No. 17769, dated December 20, 1926, as amended by Decision No. 17902, dated January 12, 1927, and by Decision No. 18498, dated June 10, 1927, the Commission declared that public convenience and necessity required the exercise by Tracy Gas Company of the rights and privileges granted it by Ordinance No. 112, passed by the board of trustees of the city of Tracy on February 3, 1927, and authorized the company to issue and sell \$75,000 of stock. In the original petition the company asked permission to issue \$100,000 of stock and \$100,000 of bonds. In regard to the bond issue, the Commission in Decision No. 17769, says:

It (applicant) has entered into no agreement for the sale of the bonds and submitted to the Commission neither a form of the bond nor a copy of its proposed deed of trust. We feel that it is proper for the company to issue not exceeding \$100,000 of bonds to pay in part the cost of its gas plant, provided it can sell enough stock to establish a reasonable equity for the bonds, and that it submit in satisfactory form, a deed of trust. We will not authorize the issue of the bonds until we are furnished with satisfactory information showing that the company has sold at par \$50,000 or more of its stock and has on deposit with some bank or banks at least 75 per cent of the selling price of such stock.

Applicant has submitted a statement showing that it has sold \$65,000 of the stock and that it has on deposit with the Bank of Italy the sum of \$50,000 from the sale of such stock. It has also submitted a copy of its proposed deed of trust and form of bond.

When this Commission authorized the issue of \$75,000 of stock (Decision No. 17769) and expressed the opinion that the company should be permitted to issue \$100,000 of bonds, it proceeded on the theory that the plant, including all organization and general and miscellaneous expenses, other than cost of selling stock and discount on bonds, would cost \$145,121. Applicant now submits a revised cost estimate of \$200,000 which includes \$17,500 for commissions to sell stock and \$10,000 of bond discount. At the hearing had before Examiner Satterwhite on July 30th, no witness familiar with the revised estimate was produced. Because of applicant's failure to produce a witness, we will not consider the revised cost estimate filed July 19th as part of the record in this proceeding and deny applicant's request to issue \$25,000 additional stock, for the reason that no evidence has been submitted to justify such issue.

Applicant has concluded to locate its generating plant outside the city limits of Tracy, and it has therefore become necessary for it to obtain a county franchise. The franchise heretofore obtained from the city of Tracy requires the company to use cast iron pipe if it constructed a low pressure system. It prefers, however, not to construct its low pressure distributing system in the city of Tracy with cast iron pipe, and therefore has obtained a new franchise, Ordinance No. 114, which gives it the option to use cast iron pipe or steel and wrought

iron pipe. Certified copies of both the city and county ordinances have been filed in this proceeding. At the hearing had before Examiner Satterwhite, the Pacific Gas and Electric Company and Western States Gas and Electric Company, a subsidiary which also serves gas in San Joaquin County, were represented but did not protest the granting of the requests of applicant, provided that said applicant did not seek permission to operate elsewhere than in the city of Tracy and the territory immediately adjacent thereto.

The Commission by Decision No. 17769, as amended, required that all the proceeds obtained from the sale of stock, except such amount as the order of the Commission allows to be expended to pay commissions and other expenses incident to the sale of the stock, shall be deposited with a bank or banks and expended only as hereafter authorized by the Commission by supplemental order or orders. We believe that the net proceeds which the company will realize from the sale of the bonds herein authorized to be issued, should likewise be deposited with a bank or banks and expended only as hereafter authorized by a supplemental order or orders.

On July 1st Tracy Gas Company requested permission to withdraw \$59,671 for the following purposes:

Railway siding from the Southern Pacific line to the proposed gas plant...	\$1,580 00
Payment for the land, 3 acres, rights of ways and private roadway-----	5,000 00
For the drilling and equipping of water well, the pump and electric motor	1,650 00
Concrete foundations for the gas holder, lampblack pit and run, and foundations for all other machinery-----	7,000 00
For the building of a water reservoir-----	1,250 00
For the purchase of pipe, 5200 feet 6-inch steel pipe, wrapped and dipped	6,186 00
20,000 feet 4-inch steel pipe, W. and D.-----	13,395 00
25,000 feet 2-inch pipe, also W. and D.-----	5,810 00
50,000 feet trenching and laying-----	12,500 00
Cost of welding pipes-----	4,350 00
Office furniture and equipment, stationery and printing-----	1,000 00
Total -----	\$59,671 00

Before we will authorize the withdrawal of any money for the purchase of pipe, we desire to be advised from whom such pipe is being purchased, the condition of the pipe (new or second-hand), whether the same is being purchased under competitive bidding, and the terms and conditions of the purchase. The order herein will authorize the withdrawal of \$20,480 for the purposes stated in said order.

Applicant on August 3d filed a revised copy of its mortgage and/or deed of trust which is in satisfactory form.

Tracy Gas Company asks permission to sell 6 per cent 20-year bonds at 90 and accrued interest or on a basis of nearly 7 per cent. In our opinion the price at which the company asks permission to sell its bonds is too low and the order herein will authorize the sale of the same at not less than 92½ per cent of their face value and accrued interest.

THIRD SUPPLEMENTAL ORDER.

Tracy Gas Company, having asked permission to exercise franchise rights and to issue stocks and bonds and expend the proceeds realized from the sale of stocks and bonds, a further hearing having been held and the Commission being of the opinion that public convenience and necessity require the exercise of said franchise rights and the construction and operation of a gas plant and system in Tracy and its environs, and that the issue of the additional \$25,000 of stock should be denied without prejudice and that the company should be permitted to issue \$100,000 of bonds, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income; therefore,

The Railroad Commission hereby declares that public convenience and necessity require the exercise by Tracy Gas Company of the rights and privileges granted by Ordinance No. 381 passed by the board of supervisors of the county of San Joaquin on June 13, 1927; and by Ordinance No. 114 passed by the board of trustees of the city of Tracy on July 26, 1927, and the construction, maintenance and operation by Tracy Gas Company of the gas plant and system described in this proceeding, provided that the rights and privileges granted by said Ordinance No. 381 may be exercised only in so far as it is necessary to construct and operate the gas plant referred to herein and distribute gas in the territory adjacent to the city of Tracy; and provided further that the authority herein granted to exercise franchise rights will not become effective until applicant has filed with the Commission a stipulation duly authorized by its board of directors declaring that it, its successors and assigns will never claim before the Railroad Commission or any court or other public body a value for the rights and privileges it is herein authorized to exercise in excess of the amounts actually paid (which amounts are to be stated in the stipulation) to the city of Tracy and the county of San Joaquin as the consideration for the grant of the franchises and has received from the Commission a supplemental order approving such stipulation; and provided further that if applicant does not within 45 days after the date hereof begin and thereafter diligently prosecute the construction of its proposed gas plant and transmission and distribution system, the permission herein granted to exercise franchise rights will be null and void.

It is hereby ordered, that Tracy Gas Company be and it is hereby authorized to execute a mortgage and/or deed of trust substantially in the same form as that filed in this proceeding on August 3, 1927, provided that the authority herein granted to execute a mortgage and/or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the Public Utilities Act and is not intended as an approval of such mort-

gage and/or deed of trust as to such other legal requirements to which said mortgage and/or deed of trust may be subject.

It is hereby further ordered, that Tracy Gas Company be and it is hereby authorized to issue and sell on or before December 31, 1927, at not less than 92½ per cent of their face value and accrued interest \$100,000 of its first mortgage 6 per cent 20-year bonds due July 1, 1947, provided that the authority herein granted to issue said bonds will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$100.

It is hereby further ordered, that Tracy Gas Company shall deposit with the trustee under its mortgage and/or deed of trust such amount realized from the sale of its bonds as may be sufficient to pay the interest on such bonds due January 1, 1928. The remainder of the proceeds shall be deposited with a bank or banks and may be expended only for such purposes as the Railroad Commission will authorize by supplemental order or orders.

It is hereby further ordered, that this application in so far as it involves the issue of \$25,000 of additional stock be and the same is hereby denied without prejudice.

It is hereby further ordered, that Tracy Gas Company may expend \$20,480 obtained from the sale of stock for the following purposes:

To construct railway siding from the Southern Pacific line to proposed gas plant, approximately-----	\$1,580 00
To pay for three acres of land, rights of ways, and private roadway, approximately-----	5,000 00
To pay for drilling and equipping water well, pump and electric motor, approximately-----	1,650 00
To pay for concrete foundations for gas holder, lampblack pit and run and foundations for all machinery, approximately-----	7,000 00
To pay for building of a water reservoir, approximately-----	1,250 00
To pay for office furniture and equipment, stationery and printing, approximately-----	1,000 00
To pay the expenses incident to bond issue including attorney's fees and cost of acquiring franchises, approximately-----	3,000 00

It is hereby further ordered, that Tracy Gas Company shall file with the Commission within thirty days after the execution of the mortgage and/or deed of trust referred to herein, two certified copies of said mortgage and/or deed of trust, and that said company shall keep such record of the issue and sale of the bonds herein authorized to be issued and sold and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this fourth day of August, 1927.

DECISION No. 18686.

CALIFORNIA TRANSIT CO., A CORPORATION,

*vs.*M. L. SCOTT AND D. SCOTT, DOING BUSINESS UNDER THE NAME OF
BIG THREE EMPLOYMENT OFFICE, AND A. C. SADLER.

Case No. 2178.

Decided August 5, 1927.

TRANSPORTATION—AUTO STAGES—UNAUTHORIZED SERVICE.—M. L. and D. Scott, operating Big Three Labor Agency, found to be operating without a certificate from the Railroad Commission. Auto stages for the transportation of passengers between the fixed termini of Stockton and Merced Falls, and are ordered to cease such service until they shall have obtained such certificate. District attorneys of San Joaquin, Stanislaus, Merced, Mariposa and Tuolumne counties notified.

Earl A. Bagby and L. J. Smallpage, for Complainant.
Thelen and Marrin, by *Paul Marrin*, for Defendants.

BY THE COMMISSION.

OPINION.

California Transit Co., a corporation, engaged in the operation of automobile stage lines as a common carrier, for compensation, herein complains of M. L. Scott, D. Scott, M. L. Scott and D. Scott, doing business under the fictitious name of Big Three Employment Office, and A. C. Sadler, alleging:

1. That defendants, and each of them, are engaged in the business of transporting passengers for compensation as common carriers thereof, and between fixed termini, and over regular routes, within the State of California and over the public highways thereof, without first having obtained from the Railroad Commission a certificate declaring that public convenience and necessity require such operation, or any other certificate, order or permit so to do.

(2) That neither of said defendants nor any of their predecessors in interest, were actually operating in good faith, or at all, in the transportation of passengers over the public highways of this state between fixed termini or over regular routes, or at all prior to or during the year 1917 and that all the operation herein complained of is contrary to and in violation of the provisions of chapter 213, Statutes of 1917, and effective amendments thereto.

(3) That the regular routes and fixed termini over which said defendants have been and are transporting passengers for compensation are between Stockton and Merced Falls, via French Camp, Escalon, Oakdale and Waterford; between Stockton and Fresno, via main state highway; and between Stockton and all points in the State of California for which passengers can be secured.

(4) That defendants and each of them, in carrying passengers as hereinabove alleged, also carry passengers to and from points intermediate to the termini hereinabove mentioned.

(5) That defendants and each of them in the operation hereinabove alleged, are operating jointly, each with the other, and with full knowledge and in defiance of the statutory law.

(6) That complainant is lawfully operating in the transportation of persons between Stockton and Manteca via French Camp and to all points intermediate thereto and to many other points in the State of California; and that the alleged unlawful operation of defendants is doing great and irreparable injury to the business of complainant and is detrimental to the public service offered and furnished by said complainant.

Complainant prays for an order requiring defendants and each of them, to cease all transportation of passengers for compensation and from operating either as a common carrier of passengers or as a carrier of passengers between fixed termini or over regular routes within the State of California, and in particular between the termini or over the routes hereinbefore specified; for the enforcement of said order; and for such other and further relief as to the Commission may appear meet and proper in the premises.

Defendants duly filed their answer to the complaint, said answer being a general denial of the material allegations contained in the complaint.

A public hearing on this complaint was conducted by Examiner Handford at Stockton, evidence was received and the matter was duly submitted.

M. L. Scott testified that he resided in Stockton and with D. Scott conducted an employment agency maintaining offices in Stockton and Sacramento under the fictitious name of Big Three Employment Agency; that defendant A. C. Sadler was an employee; and that in the conduct of his business applicants for employment were transported to the location of the employment by the cars of witness, compensation being received from the company for whom the employee was secured. In the transportation incidental to the business of witness between Stockton and Merced Falls, no regular route was followed, there being a variety of routes and the one meeting the immediate convenience of witness at a particular time being the one selected for travel. The witness stated that no transportation had been furnished to anyone unless employment had been secured for them through defendants' labor agency; that no transportation service had been furnished to Standard or Tuolumne since the granting of an injunction by the superior court of San Joaquin county, although trips were being made between Stockton and Merced Falls and Central Camp, not upon any

regular schedule but as were occasioned by labor movement as employed through his labor agency.

A. C. Sadler testified that he was an employee of M. L. Scott and had been for four months, the nature of his employment being as a driver; and that four cars, each of eight-passenger capacity, were owned by Scott and used in the transportation of laborers who had secured their work through the employment agency. Witness had transported laborers and others who had secured employment through the agency from Stockton to the points of employment at Sugar Pine, at Merced Falls, and at Central Camp. But two trips to Sugar Pine had been made during the preceding four months, although trips to Merced Falls were made frequently averaging from four to six times per week. On return trips some passengers were hauled from Merced Falls into Stockton although no regular amount was collected, payment varying from fifty cents to three dollars having been made.

After full consideration of the record herein we hereby conclude and find as a fact that the operation of automobiles in the carriage of passengers for compensation between Stockton and Merced Falls and intermediate points by defendants M. L. Scott, D. Scott and M. L. Scott and D. Scott doing business as Scott Bros., or Big Tree Employment Agency is in violation of the provisions of chapter 213, Statutes of 1917, and effective amendments thereto, in that such operation has been conducted between fixed termini, for compensation, and without authority therefor having been obtained from this Commission by a certificate of public convenience and necessity as required by the aforesaid statutory enactment.

It appearing from the record that A. C. Sadler, defendant herein, was not a participant in the operation herein found to be in violation of the statute other than as an employee of the other defendants herein, the complaint as to such defendant will be dismissed.

ORDER.

A public hearing having been held on the above entitled complaint, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusion and finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that defendants M. L. Scott, D. Scott, M. L. Scott and D. Scott doing business as Scott Bros., or as Big Three Labor Agency, immediately cease the operation of auto stages in the carriage of passengers for compensation between the fixed termini of Stockton and Merced Falls and/or points intermediate between said termini, and not resume such operation unless and until a certificate of public convenience and necessity will have been granted by this Commission to said defendants in accordance with the provisions of the statutory

law as set forth in chapter 213, Statutes of 1917, and effective amendments thereto; and

It is hereby further ordered, that the Secretary of this Commission be and he hereby is directed to forward, by registered mail, a copy of this order to the district attorneys of the counties of San Joaquin, Stanislaus, Merced, Mariposa and Tuolumne; and

It is hereby further ordered, that this complaint, in so far as the same refers to defendant A. C. Sadler, be and the same hereby is dismissed.

Dated at San Francisco, California, this fifth day of August, 1927.

DECISION No. 18689.

IN THE MATTER OF THE APPLICATION OF UNITED STAGES, INC., FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER SERVICE OVER ALTERNATE ROUTE BETWEEN LOS ANGELES AND CALEXICO, YUMA AND BLYTHE AND INTERMEDIATE POINTS, AND BETWEEN RIVERSIDE AND BANNING VIA REDLANDS.

Application No. 11518.

IN THE MATTER OF THE APPLICATION OF MOTOR TRANSIT COMPANY FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING IT TO OPERATE ITS AUTOMOBILE STAGE LINES LOCALLY AND TO SERVE ALL INTERMEDIATE POINTS ALONG THE FOOTHILL BOULEVARD BETWEEN LOS ANGELES AND SAN BERNARDINO, AND TO OPERATE BOTH A THROUGH AND LOCAL AUTO STAGE SERVICE BETWEEN RIVERSIDE AND REDLANDS VIA LOMA LINDA, AND TO SERVE ALL POINTS INTERMEDIATE THERETO FOR THE CARRIAGE OF PASSENGERS, THEIR BAGGAGE AND EXPRESS.

Application No. 11784.

Decided August 8, 1927.

CERTIFICATE—AUTO STAGES—ALTERNATE ROUTE.—Pickwick Stages, successor to United Stages, Inc., granted certificate to operate through stages between Los Angeles and Imperial Valley points, and between Riverside and Beaumont via Highgrove, Loma Linda and Redlands. Certificate granted to Motor Transit Company to operate through stage service between Los Angeles and Pasadena, and San Bernardino and Redlands, over applicants' existing routes, without change of rates, pending action by the Commission; also to operate between Riverside and Redlands via Highgrove and Loma Linda, serving all intermediate points.

Hugh Gordon, for United Stages, Inc., Applicant.

H. W. Kidd, for Motor Transit Company, Applicant.

R. L. McNitt, for Pasadena-Pomona Stage Line, Protestant.

C. W. Crandall, for Palm Springs Auto Stage Line, Protestant.

Jos. Hellen, for Southern Pacific Company, Protestant.

H. W. Beck, *E. T. Lucey* and *M. W. Reed*, for The Atchison, Topeka and Santa Fe Railway Company, Protestant.

Edw. Stern and *T. A. Woods*, for American Railway Express, Protestant.

O. W. Cornell, *O. A. Smith* and *Forrest Betts*, for Pacific Electric Railway Company, Protestant.

H. N. Blair, for Motor Service Express and Keystone Express, Protestants.

BY THE COMMISSION.

OPINION.

United Stages, Inc., has made application to the Railroad Commission for a certificate of public convenience and necessity to operate its stages between Los Angeles and Imperial Valley points over the Foothill boulevard, and to receive and discharge passengers between Los Angeles, Pasadena and San Bernardino when originating at or destined to points east of Redlands, without local service between any of the points involved; also to conduct both through and local service between Riverside and Banning via Highgrove, Loma Linda and Redlands.

Motor Transit Company, a corporation, has made application to the Railroad Commission for a certificate of public convenience and necessity to operate its stage lines locally and to serve all intermediate points along the Foothill boulevard between Los Angeles and San Bernardino, and to conduct through and local stage service between Riverside and Redlands via Loma Linda, serving all points for passengers, their baggage and express.

Public hearings herein were conducted by Examiner Austin at Los Angeles, at which time the matters were duly submitted and now are ready for decision.

Applicant United Stages, Inc., now operates a line between Los Angeles and the Imperial Valley over the Valley boulevard via Riverside. It is proposed to divide its operating schedule so that one or more trips per day will be made via Pasadena, thence over the Foothill boulevard to San Bernardino, thence via Redlands, Beaumont and Banning to Coachella and points in the Imperial Valley. The application was intended to place applicant in a position to conduct a through haul for all passengers journeying to points east of Redlands, without the necessity of transfer from other lines at Riverside or Banning.

When this application was presented at the hearing, Motor Transit Company, already operating restricted service between Los Angeles and San Bernardino over the Foothill boulevard, appeared as a protestant and also presented its application for joint hearing with the application of the United Stages. By order of the Commission the applications were set for hearing together, and during the progress of the hearings the Commission consolidated the applications for the receiving of testimony and for decision. It was also ordered that all express rates should be determined by decision on Application No. 11502, now pending.

Subsequent to the submission of both applications, all the rights and interests of the United Stages, Inc., were, by authority of this Commission, transferred to and vested in Pickwick Stages System, including its rights as applicant herein as set forth in Decision No. 17585 on Application No. 13051, dated November 9, 1926. This transfer of inter-

est substantially modified the relationship of applicant Motor Transit Company and Pickwick Stages System and resulted in a stipulation between these parties, filed subsequent to the hearing, whereby Pickwick Stages System, as successor to United Stages, Inc., withdrew all its request for service over the Foothill boulevard and elsewhere, and retained only that portion of the application requesting authority to conduct through service between Riverside and Redlands via Loma Linda. The result of these modifications is that the Commission is now asked to authorize unrestricted through and local service between Los Angeles, Pasadena and San Bernardino by Motor Transit Company over its existing routes, and through and local service between Riverside and Redlands via Loma Linda, and to authorize Pickwick Stages System to operate through service between Riverside and Redlands; and the question to be determined is the adequacy of existing facilities and the proof of public convenience and necessity as shown by the testimony presented.

It was stipulated during the progress of the proceedings that the testimony as to public convenience and necessity should apply equally to either applicant, and in this respect the testimony introduced by applicant United Stages would be considered as beneficial to the application of Motor Transit Company in so far as its requests are concerned.

During the progress of the hearings thirty-five witnesses were presented by applicants in support of the necessity for the service proposed. Many of these witnesses were agents and employees of the applicant corporations, and their testimony related to demands at various stations now maintained by each applicant, as well as from individuals, pointing out inconvenience of both present stage and rail facilities. In order to present this testimony briefly we shall first discuss the testimony relating to the Foothill boulevard operation.

Applicant Motor Transit Company proposes unlimited through operation for passengers, their baggage and express between Los Angeles, Pasadena and San Bernardino. This applicant operates from Los Angeles via Huntington drive to Arcadia, thence turning north to the Foothill boulevard and following it through Upland and Claremont to San Bernardino. It also has a direct service branching from this line into Pomona. From Pasadena, applicant's service proceeds southerly along Los Robles to a junction with the main line at Huntington drive; thence over the route as heretofore given, there being no direct operation by this applicant between its station in Pasadena and Arcadia over the Foothill boulevard.

Witnesses presented in support of this phase of the application testified that at the present time passengers desiring to go from Pasadena or any Foothill boulevard point, to points east of Glendora, particularly Riverside or Redlands, are obliged either to take the Pacific

Electric Railway's Glendora line and travel westwardly to the junction of the Pacific Electric line with the Valley boulevard, a distance of 11 miles, or less, and there, by transfer to the San Bernardino-Riverside line of the Pacific Electric, gain transportation to these points; or passengers are required to board the stages of the Pasadena-Pomona Stage Line and make connection with the Pacific Electric or applicant either at La Verne or at Pomona. The testimony of these witnesses was to the effect that at applicant's stations in Pasadena, Monrovia, Riverside, San Bernardino, Redlands, Banning and Imperial Valley points, inquiries are received daily for direct transportation by stage to or from Foothill boulevard points. This testimony shows a continuous expression of need by the public for direct connections, covering a considerable period of time, and this testimony was not refuted by protestants, except in one or two minor instances. The record in this respect unquestionably shows a public need for the transportation proposed by applicant, in so far as through service is concerned, it being perfectly plain that the Pacific Electric does not furnish through service eastwardly along the Foothill boulevard beyond Glendora, and that all traffic seeking to go east of Glendora must either ride the Pacific Electric a distance of 11 miles or more westwardly to a junction with the San Bernardino-Riverside line, or journey in the stages of the Pasadena-Pomona line for a connection either at La Verne or Pomona. We think the testimony is clear that these connections are not satisfactory to the public, except with the Pacific Electric at La Verne. This protestant operates six services daily on a two-hour schedule, from 7 a.m. to 7 p.m. It is distinctly a local line and devotes all its efforts to the conduct of local business, and the testimony seems conclusive that it is performing this service satisfactorily.

The larger question of convenience to the public in providing direct and rapid through transportation to distant points outweighs the objections made by this protestant to the establishment of through service by applicant, the public, we believe, being entitled to a choice of services when the demand is large enough, as appears to be the case from the record in this proceeding. We do not believe, however, that the evidence justifies the removal of restrictions upon applicant's local service between Arcadia and San Dimas, as applied for, as for local service protestants Pacific Electric Railway and Pasadena Pomona Stage Line maintain adequate facilities.

Applicant also seeks authority to conduct through and local service between Riverside and Redlands via Highgrove and Loma Linda, serving all intermediates for passengers, baggage and express. The testimony of many witnesses from Highgrove, Redlands, Loma Linda and Riverside is sufficient, we believe, to justify the granting of authority for the establishment of this operation. The chief protestant against

this service was the Pacific Electric Railway, which conducts service between Riverside and Redlands via San Bernardino, incidentally serving Highgrove and Loma Linda. The testimony shows that the service in both instances is not direct to the communities, and that in both cases a walk of from one-half mile to a mile and a half is necessary in order to board the Pacific Electric cars, and further, that this service is conducted on a two-hour schedule.

Applicant formerly conducted a service between Riverside and Highgrove, but the limitations on this service necessitated its abandonment by permission of this Commission, due to lack of patronage. It was the testimony of witnesses that a direct service between Riverside and Redlands, without the necessity of journeying through San Bernardino, would be of decided benefit, and the chambers of commerce of Riverside and Redlands, as well as the Highgrove Chamber of Commerce, supported this demand. The journey by rail between termini is practically hourly, and the distance, 16 miles, takes an hour by the Pacific Electric cars, including the stop in San Bernardino and a change of cars. The routes traversed by the two carriers are entirely different, the rail service going by way of Colton and San Bernardino, while the stage service would go directly east from Highgrove through Loma Linda. The operating time of the stage service is on a 45-minute schedule between termini, without any change, and the service that the stage line would give is largely to an area now without any transportation service. For these reasons we believe the request of applicant for authority to establish this service, should be granted.

Applicant Motor Transit Company stipulated in this proceeding that whatever rights for the transportation of express matter may be granted herein will be subject to modification by whatever decision this Commission may render on Application No. 11502, which is Motor Transit Company's application for a uniform weight limit and rate structure over its entire system.

The application of Pickwick Stages System, having been reduced by elimination to a mere through operation between Riverside and Redlands, with the privilege of receiving only such passengers as are destined to or from points west of Riverside and east of Redlands, seems to be unobjectionable. The right of Pickwick Stages to use this route as it has been used was questioned in the proceeding, but the operation was excused on the ground that the work being done on the route via Moreno, commonly known as the "Jack Rabbit trail," was such that it was unsafe to operate the large passenger vehicles of applicant over this route. The testimony was not clear that this was a good reason at all times, but it appeared that frequently the detours provided were such that safe stage operation could not have been conducted over them. However, it appears that it is to the public interest to have one

branch of the Pickwick Stages System to the Imperial Valley pass over this route for through service purposes, and as no important objection was made in the hearing to such through service, we believe a certificate should be granted authorizing this applicant to route its stages to Imperial Valley either via Moreno or via Loma Linda east of Riverside.

We are of the opinion, therefore, that applicant Motor Transit Company should be permitted to become a carrier for through business from points on the Foothill boulevard west of Claremont, and to deliver passengers intending to take the Pickwick System stages to the Imperial Valley or other points, at Redlands; that Motor Transit Company should be permitted to establish service locally between Riverside and Redlands, inclusive, and that applicant Pickwick Stages System should be permitted to route its schedules east of Riverside via Loma Linda and Redlands. In all other respects we believe the applications herein should be denied, and an order will be entered accordingly.

ORDER.

Motor Transit Company, a corporation, having made application to the Railroad Commission for a certificate of public convenience and necessity authorizing it to operate local and through service between Los Angeles and Pasadena and San Bernardino and Redlands via the Foothill boulevard over its existing routes, and also to establish automobile service for the transportation of passengers, their baggage and express, between Riverside and Redlands, a public hearing having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by applicant Motor Transit Company of a through automobile service for the transportation of passengers, their baggage and express, between Los Angeles and Pasadena and San Bernardino and Redlands, over applicant's existing routes as duly authorized by this Commission, this certificate benefiting applicant only by the permission to do such through business without change of rates for either passengers, their baggage or express, until and when such rates shall be modified by this Commission in its decision upon Application No. 11502 of applicant herein and now pending for determination; also for the operation of automobile service for the transportation of passengers, their baggage and express, between Riverside and Redlands, inclusive, and all points intermediate, over the highway via Highgrove and Loma Linda, such certificate as to rates for express to be modified by whatever decision this Commission may render in said Application No. 11502; and

It is hereby ordered, that a certificate of public convenience and necessity for such service be and the same hereby is granted to applicant Motor Transit Company, subject to the following conditions:

I. Applicant Motor Transit Company shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

II. Applicant shall file, in duplicate, within a period of not to exceed twenty days from date hereof, tariff of rates and time schedules, such time schedules and tariff of rates to be identical with those attached to the application herein, or time schedules and rates satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

III. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

IV. No vehicle may be operated by applicant herein under the authority hereby granted unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Pickwick Stages System, a corporation, having made application to the Railroad Commission, as amended, and as successor in interest to United Stages, Inc., original applicant herein, for a certificate of public convenience and necessity authorizing operation of its through stages between Los Angeles and Imperial Valley points, and between Riverside and Beaumont via Highgrove, Loma Linda and Redlands, public hearings having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by applicant Pickwick Stages System of its through stages between Los Angeles and Imperial Valley points, and between Riverside and Beaumont via Highgrove, Loma Linda and Redlands; and

It is hereby ordered, that a certificate of public convenience and necessity for such service be and the same hereby is granted to applicant Pickwick Stages System, subject to the following conditions:

I. Applicant Pickwick Stages System shall file with the Railroad Commission, within a period of not to exceed twenty days from date hereof, its written acceptance of the certificate herein granted.

II. Applicant shall file, in duplicate, within a period of not to exceed thirty days from date hereof, its time schedules for operation over said route, for through business only, without any transportation of passengers, their baggage, or express, between Riverside and Redlands, inclusive, or intermediates, and for said through business only for the

transportation of passengers, their baggage, or express, from or to points west of Riverside, or from or to points east of Redlands, when such passengers, their baggage or express are destined to points west of Riverside or east of Redlands.

III. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

IV. No vehicle may be operated by applicant herein under the authority hereby granted unless such vehicle is owned by applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that in all other respects the applications herein and each of them be and the same hereby are denied.

For all purposes except as hereinbefore stated, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, the eighth day of August, 1927.

DECISION No. 18692.

IN THE MATTER OF THE APPLICATION OF MOTOR TRANSIT COMPANY FOR AN ORDER PERMITTING IT (1) TO REROUTE CERTAIN MINOR PORTIONS OF ITS PRESENT AUTOMOBILE STAGE OPERATIONS ON ITS EASTERN AND SOUTHERN DIVISION LINES; (2) IN CONNECTION THEREWITH TO ABANDON FOR SHORT DISTANCES CERTAIN PORTIONS OF SAID EXISTING ROUTES; (3) FOR AUTHORITY TO OPERATE FOR SHORT DISTANCES OVER CERTAIN HIGHWAYS NOT NOW TRAVERSED BY APPLICANT IN SAID OPERATIONS, IN ORDER TO MAKE SAID REROUTING EFFECTIVE; (4) FOR AUTHORITY TO RESUME CERTAIN AUTOMOBILE STAGE SERVICE FORMERLY CONDUCTED BY APPLICANT BETWEEN DOWNEY AND NORWALK; (5) FOR AUTHORITY TO MERGE ALL OF SAID REROUTING AND RESTORED SERVICE WITH, AND TO CONDUCT THE SAME IN CONJUNCTION WITH, AND AS A PORTION OF APPLICANT'S OPERATION OF ITS EASTERN AND SOUTHERN DIVISIONS; AND (6) FOR A FINDING AND ORDER THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE ALL OF SAME.

Application No. 13676.

Decided August 8, 1927.

CERTIFICATE—AUTO STAGES—TO REROUTE—TO MERGE OPERATIONS.—Application granted as prayed for.

H. W. Kidd, for Applicant.

H. O. Marler, for Pacific Electric Railway Company, Protestant.

H. N. Blair, for Keystone Express, Protestant.

T. A. Woods, for American Railway Express, Protestant.

BY THE COMMISSION.

OPINION.

In this proceeding the Motor Transit Company has made application to the Railroad Commission for an order permitting it to reroute certain

of its services, to resume passenger service between Downey and Norwalk, and to merge all rerouted and restored service with its eastern and southern divisions.

Public hearings herein were conducted by Examiner Williams at Los Angeles, at which time the matter was duly submitted and now is ready for decision.

Applicant proposes, by elimination and rerouting, and by the establishment of new lines, to effect a correction in its operating service that is estimated to reduce its road mileage approximately 16 miles per day, or a saving of 249 car miles per day, which, at the estimated cost of 28 cents per mile, is equivalent to a saving of approximately \$2,000 monthly. It is the purpose of applicant to benefit by these economies and to bestow the benefits upon improved service generally in its system. Specifically, the changes sought by applicant are:

(a) To reroute its Coyote Pass line, extending from Pasadena to Long Beach and acquire from the Dillingham Transportation Company, by abandoning the route on Fair Oaks, Columbia and Fremont avenues to Garvey road, a distance of 6.5 miles. This line will be rerouted via Los Robles and Garfield avenue to Garvey road, another authorized service acquired from Dillingham Transportation Company. From the junction of Garvey road and Garfield avenue, applicant desires a new certificate authorizing service running westwardly and connecting with Coyote Pass, a distance of 2.1 miles. Applicant also proposes to abandon its route on Pasadena avenue from Floral avenue and Ford street to Telegraph road, and to substitute therefor Ford street from Floral avenue to Telegraph road. Ford street is 1000 feet east of Pasadena avenue, passing through the center of Belvedere Gardens, an unincorporated community of several thousand inhabitants, while Pasadena avenue passes to the west of this territory and parallels a cemetery district providing no passengers. Testimony shows that during the month of April, 1927, only nine passengers transferred from this service to cars going in other directions. The effect of this change will be to give one line through from Pasadena to Telegraph road over well paved streets and through a populous territory, eliminating a dead operation which was restricted against local traffic mostly in its entire length.

(b) To abandon service on Garvey road and San Gabriel boulevard and Poplar avenue to Montebello, a distance of 8.3 miles; also to abandon operation over Passom boulevard between Whittier boulevard and Telegraph road, a distance of 4 miles. This does not affect passengers changing at Montebello for other points, but Rivera passengers will be required to walk about one-half mile to Telegraph road. During the month of April, 1927, only 12 passengers were transported over this route. The service on this line is to be rerouted over the present

route via San Gabriel, El Monte and Whittier. It represents abandonment of 12.3 road miles and a saving of 89 car miles per day, with apparently as good or better service to the public.

(c) To abandon Judson road in the operation of the Whittier-Long

Beach line via Los Nietos and Norwalk, a distance of 3.8 miles. This operation will be rerouted over Whittier boulevard to Telegraph road. Los Nietos is on the line of the Pacific Electric and is one-half mile from Telegraph road. The testimony shows that during the month of April, 1927, seventeen passengers were transported from Los Nietos over this route.

(d) To establish a new operation over Painter avenue from Whittier to Telegraph road, a distance of 2.6 miles. This operation will form a connection permitting the routing of the lines indicated in paragraphs (b) and (c) into Whittier, without doubling back on the same road, and also will serve a well populated territory, including Santa Fe Springs.

(e) To abandon an operation over Center street and Somerset street to Bellflower road, a distance of 5.9 miles, and to reroute this service over Norwalk road via Artesia avenue to Bellflower, a distance of 4 miles. This change will save doubling car miles into Artesia.

(f) A new certificate for the operation of service between Downey and Norwalk, a distance of 4.8 miles. Applicant formerly conducted such service, but it was abandoned by authority of this Commission under Decision No. 7835. It is now the purpose of applicant to operate in connection with other services between these points.

(g) A certificate for the establishment of an operation between Anaheim and Garden Grove over Euclid avenue, the new road to be traversed to be between Anaheim and Bolsa and connecting there with the main lines of applicant, operating from Santa Ana to Newport Beach and Long Beach.

From the testimony introduced by applicant as to its rerouting, which was principally by F. D. Howell, its vice president and general manager, this rerouting appears to be an operating economy fully justified by the traffic involved and leaving no section without adequate service. The changes are principally required because of the fact that applicant acquired operations formerly conducted by the Dillingham Transportation Company and the Crown Stages, and where abandonment is sought there was a restriction against local business to protect other carriers.

As to the establishment of service between Downey and Norwalk, applicant presented the testimony of Chas. E. Irish, president of the Norwalk Chamber of Commerce, W. O. Benstead, president of the Downey Chamber of Commerce, and Mrs. Allie Neal, all of whom testified as to the necessity for communication between the two communities. Other witnesses were available, but it was stipulated that

their testimony would be practically the same as that presented by the witnesses who were examined.

As to the operation between Anaheim and Bolsa through Garden Grove, applicant was supported by the testimony of George W. Reid, secretary of the Anaheim Chamber of Commerce; George R. Rayburn, secretary of the Garden Grove Chamber of Commerce; E. J. Tobias, a merchant of Garden Grove, and W. M. Morrill, also of Garden Grove. It appears from their testimony that there are approximately 150 families residing between Anaheim and Bolsa, outside the towns of Garden Grove and Anaheim, who have no transportation service whatever at the present time.

Witnesses in support of the additional service between Whittier and Santa Fe Springs were Mrs. Eva Aldrich and Mrs. M. L. Ditzler, residing on Painter avenue, over which the operation would pass. The testimony of these witnesses is sufficient, we believe, to justify the granting of a certificate for this new operation.

During the progress of the hearing each of the protestants withdrew its protest upon stipulation of applicant that all rates affecting express would be subject to the ruling of this Commission in Application No. 11502, filed by Motor Transit Company, in which a uniform rate and weight base for all its express business over its entire system was asked.

After full consideration of all the testimony and exhibits filed by applicant herein, and in view of the withdrawal of all protest by protestants after being fully advised, and further in view of the affirmative testimony in support of the eliminations and additions to service as requested, we believe the application herein should be granted as prayed for. An order will be entered accordingly.

ORDER.

Motor Transit Company, a corporation, having made application to the Railroad Commission for an order authorizing certain abandonments, reroutings and new operations over its system in its eastern and southern divisions, public hearings having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by applicant Motor Transit Company of automobile service for the transportation of passengers, baggage and express, between the points and over the routes hereinafter named, as follows:

Between Garvey road and Garfield avenue and Pasadena avenue, via Garvey road.

Over Painter avenue from Whittier to Telegraph road.

Between Downey and Norwalk over the Downey-Norwalk highway.

Between Anaheim and Garden Grove via Euclid avenue.

Via Norwalk road and Artesia avenue to Bellflower; and

It is hereby ordered, that a certificate of public convenience and necessity for such service be and the same hereby is granted to applicant Motor Transit Company, subject to the following conditions:

I. Applicant Motor Transit Company shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

II. Applicant shall file, in duplicate, within a period of not to exceed twenty days from date hereof, tariff of rates and time schedules, such tariffs or rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from date hereof.

III. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

IV. No vehicle may be operated by applicant herein under the authority hereby granted unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that applicant herein be and it hereby is authorized to abandon and discontinue operation of service for the transportation of passengers, baggage and express between Pasadena and Garvey road via Fair Oaks, Columbia and Fremont avenues; also between Floral avenue and Ford street and Telegraph road via Pasadena avenue; also between Garvey road and San Gabriel boulevard and Poplar avenue; also between Whittier boulevard and Telegraph road via Passom boulevard; also between Whittier boulevard and Telegraph road via Judson road, and also between Norwalk road and Bellflower, via Center street and Somerset street.

For all purposes except as hereinbefore specified the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California this eighth day of August, 1927.

DECISION No. 18694.

IN THE MATTER OF THE JOINT APPLICATION OF PICKWICK STAGES SYSTEM AND MOTOR TRANSIT COMPANY FOR AUTHORITY PERMITTING THE FORMER TO DISCONTINUE CERTAIN OF ITS LOCAL AUTOMOBILE STAGE LINE OPERATIONS BETWEEN RIVERSIDE AND BEAUMONT, CALIFORNIA, VIA MORENO, AND OF THE LATTER FOR AUTHORITY TO OPERATE SAID LOCAL STAGE SERVICE AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING THE SAID CHANGES IN OPERATIONS.

Application No. 13750.

Decided August 8, 1927.

CERTIFICATE—AUTO STAGES—TO OPERATE—SERVICE—TO DISCONTINUE.—Application of Pickwick Stages System to abandon local service in favor of Motor Transit Company, and of the former to operate through service along the routes involved, granted as prayed for.

H. W. Kidd, for Motor Transit Company, Applicant.
Warren E. Libby, for Pickwick Stages System, Applicant.
T. A. Woods, for American Railway Express, Protestant.

BY THE COMMISSION.

OPINION.

This is the joint application of Pickwick Stages System and Motor Transit Company for a certificate of public convenience and necessity authorizing changes in the service now maintained by these carriers from Riverside to points east thereof, over the route from Riverside via Moreno and Jack Rabbit trail to Beaumont.

A public hearing herein was conducted by Examiner Williams at Los Angeles.

Applicant Pickwick Stages, as successor to United Stages, Inc., conducts an operation from Los Angeles to Imperial Valley points, traversing the route between Riverside and Beaumont via Box Springs grade, Moreno and Jack Rabbit trail, and in the conduct of this operation has given incidental local service. Applicant Motor Transit Company traverses the same route to Beaumont and Banning, at the latter point proceeding south and serving the mountain communities of Keen Kamp, Idyllwild and other points in the San Jacinto mountains, but does no local or intermediate business along the route, by either of said services, between Riverside and Banning.

Motor Transit Company also conducts an operation between Riverside and various points in the Perris Valley via Moreno, including Gilman's Hot Springs, San Jacinto, Soboba Hot Springs and Hemet, which operation was formerly conducted by R. S. Cregar and the G. & W. stages and which has been duly transferred by authority of this Commission. This latter operation served some local points between Riverside and Hemet, but was restricted from serving other points also served by applicant Pickwick Stages System, between Riverside and Moreno. It is proposed by both applicants that the operation be so readjusted by a new certificate that Motor Transit Company may enjoy all local rights on both its lines operating via Moreno, and that Pickwick Stages may retain only its through operations. Neither service proposed is competitive with any carrier as to intermediates between Beaumont and Riverside, over the routes traversed, and each has express-carrying privileges.

Applicant Motor Transit Company proposes a schedule of rates for intermediate points over this route, which schedule is based, according to the testimony of F. D. Howell, its vice-president and general manager, on the rate base used in all the structure of fares for Motor Transit Company over its entire system, and the fares proposed are not an increase over the fares now provided for Pickwick Stages System. Applicant Motor Transit Company also provides express rates with a minimum charge of 15 cents and based upon a maximum weight of 75 pounds, which is the weight authorized for its service over its own and the Cregar and G. & W. stages. It was stipulated by applicant Motor Transit Company, however, that whatever certificate is granted herein as to express shall be subject to the decision of the Commission on Application No. 11502, which is applicant's blanket request for a uniform weight limit and rate structure for express over its entire system. For this reason the express rates provided herein will be authorized only until such time as the decision above mentioned is promulgated by this commission.

While the protest of the American Railway Express was entered, no testimony was presented by this protestant, in view of the fact that the express status of the carriers is not to be disturbed by any certificate that may be granted herein.

The record presented in this matter justifies the granting of a certificate as prayed for by both applicants, because it is apparent from the showing that the traffic is insufficient to support two operations, and that the public will be better served by one well nourished local service and one through service than by several partially restricted services.

ORDER.

Pickwick Stages System and Motor Transit Company having made joint application to the Railroad Commission for authority permitting the former to discontinue certain of its local automobile stage line operations between Riverside and Beaumont via Moreno, and permitting the latter to operate said local stage service, and for a certificate of public convenience and necessity authorizing said changes in operations, a public hearing having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment of local service by applicant Motor Transit Company between Riverside and Banning, inclusive, and all intermediate points, over and along the route via Box Springs, Moreno and Jack Rabbit trail, and the removal of all restrictions heretofore imposed against said termini and intermediates; and

It is hereby ordered, that a certificate of public convenience and necessity for such service be and the same hereby is granted to applicant Motor Transit Company, subject to the conditions attached to this order.

It is hereby further ordered, that all restrictions heretofore imposed against said applicant's service between said termini and intermediates be and the same hereby are revoked and annulled.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the abandonment by applicant Pickwick Stages System of all local service between Riverside and Beaumont and Banning via Box Springs, Moreno and Jack Rabbit trail, and the operation of through service only by said applicant between Los Angeles and Imperial Valley points over said route; and

It is hereby ordered, that applicant Pickwick Stages System be and it is hereby authorized to cancel all its existing local rates between Riverside and Beaumont and Banning via Box Springs, Moreno and Jack Rabbit trail, and to discontinue all local service between said termini and intermediates, and to provide through service only between Los Angeles and Imperial Valley points over said route; provided, however, that said Pickwick Stages System shall have authority to receive passengers at Banning, or points east or south thereof, destined to points intermediate to either place and Riverside, and to receive or discharge passengers received at points west of Riverside destined to points east or south of Banning, and to receive passengers from any intermediate point destined to points east of Banning or west of Riverside; and

It is hereby further ordered, that a certificate of public convenience and necessity therefor be and the same hereby is granted to said applicant Pickwick Stages System, subject to the following conditions:

I. Applicants Pickwick Stages System and Motor Transit Company shall file their written acceptances of the certificate herein granted within a period of not to exceed twenty days from date hereof.

II. Applicant Motor Transit Company shall file, in duplicate, within a period of not to exceed thirty days from date hereof, tariff of rates and time schedules, such tariff of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from date hereof.

III. Applicant Pickwick Stages System shall file, within twenty days from date hereof, cancellation of all its local rates between Riverside and Banning and Beaumont, inclusive, and shall file, in lieu thereof, its through rates between Los Angeles and Imperial Valley points.

IV. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued,

unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

V. No vehicle may be operated by applicants herein under the authority hereby granted unless such vehicle is owned by applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California this eighth day of August, 1927.

DECISION No. 18695.

BAY AND RIVER BOAT OWNERS' ASSOCIATION

vs.

WILLIAM FRODSHAM.

Case No. 2297.

Decided August 8, 1927.

TRANSPORTATION—CARRIER BY WATER—ILLEGAL OPERATION.—Defendant ordered to discontinue unauthorized service of freight vessels on the Sacramento and San Joaquin rivers in the vicinity of Antioch until he shall have obtained a certificate from the Commission, except as to gasoline launch of less than five tons register heretofore authorized.

Gwyn H. Baker, for Complainant.

Edward J. Lynch, for Defendant.

LOUTTIT, *Commissioner*.

OPINION.

The complaint of Bay and River Boat Owners' Association, filed in this matter on December 28, 1926, alleges that defendant, William Frodsham, is engaged in the operation of vessels on the inland waters of the State of California as a common carrier of freight for hire between Antioch and various points, more particularly between Antioch and Stockton; that the defendant was not operating vessels in good faith under tariffs and schedules lawfully on file with the Railroad Commission of the State of California prior to August 16, 1923, and that no certificate has ever been issued by the Railroad Commission of the State of California declaring that public convenience and necessity require such operation by the defendant, and that therefore such operation by him is unlawful and in violation of section 50(d) of the Public Utilities Act.

In answer to the complaint the defendant denies each of the above allegations. The issues in the case are, therefore, well defined.

A formal hearing in the matter was held before me at Antioch on March 15, 1927, at which time testimony was introduced by the parties.

The record shows that the defendant is now operating, and since 1923 has operated, a mail boat from Antioch to certain points on the Sacramento and San Joaquin rivers under contract with the United States Government. With this boat the defendant also performs a common carrier service in the transportation of light freight and passengers. This boat—a gasoline launch—is of a size under the burden of 5 tons net register, and therefore is not a “vessel” within the meaning of the term as used in the Public Utilities Act (Sec. 2 (y), Public Utilities Act, 1915). The operation of this vessel, therefore, is obviously not in violation of any provision of the Public Utilities Act.

The record further shows that the defendant owns a tugboat of 8 tons net register and a barge of about 80 tons net register. The tugboat is used as an auxiliary boat on the mail route service by the defendant, and occasionally as a towboat for the barge. The barge is used three or four times a year by defendant for the transportation of hay and other products between points in the vicinity of Antioch. In every instance the service performed with the barge is rendered under private contract with the shipper. The record shows that there has been no such holding out by defendant to serve the public generally with the barge as to impress upon his operations the status of a common carrier.

It appears that defendant's operation of this tugboat of 8 tons net register as an auxiliary boat for the service rendered by the mail boat of less than 5 tons net register, is in violation of the public Utilities Act, in so far as it is used in the performance of a common carrier service for the transportation of freight and passengers. The defendant therefore should be ordered to discontinue the use of this boat of 8 tons net register in the performance of service as a common carrier unless and until he shall have obtained a certificate and the order will so provide.

ORDER.

Complaint in this matter having been filed by the Bay and River Boat Owners' Association against William Frodsham, answer having been filed by the defendant, the matter having been set down for hearing, testimony having been taken, the matter having been submitted, and the Commission being now fully informed in the premises;

It is hereby ordered, that defendant William Frodsham discontinue the operation of vessels on the inland waters of the State of California, more particularly on the Sacramento and San Joaquin rivers in the vicinity of Antioch, for the performance of service as a common carrier, unless and until he shall have obtained a certificate of public convenience and necessity, except such operation as may be conducted by the gasoline launch of less than 5 tons net register, heretofore operated by said defendant on said rivers.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this eighth day of August, 1927.

DECISION No. 18696.

AMERICAN POTASH AND CHEMICAL CORPORATION

vs.

SOUTHERN PACIFIC COMPANY, TRONA RAILWAY COMPANY.

Case No. 2315.

Decided August 8, 1927.

RATES—STEAM RAILROAD—SLACK WOODEN BARRELS—REPARATION.—Defendants ordered to refund to complainant, with interest at 6 per cent per annum, all charges collected in excess of charges found to be reasonable.

O. W. Tuckwood and D. E. Staley, for Complainant.

James E. Lyons, F. W. Mielke and A. L. Whittle, for the Southern Pacific Company, Defendants.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the state of Delaware with its principal place of business at Trona, California, is engaged in manufacturing borax, boracic acid and muriate of potash. By complaint filed February 4, 1927, it alleges that the rate of 77 cents and the charges assessed and collected on 20 carloads of slack wooden barrels moved from San Francisco to Trona during the period from March 9, 1925, to December 21, 1926, inclusive, were excessive, unjust and unreasonable in violation of section 13 of the Public Utilities Act to the extent they exceeded charges based on a rate of 60 cents and minimum weight of 10,000 pounds per 36-foot car subject to the graduated minima for longer cars provided in Rule 34 of Consolidated Classification No. 4, C. R. C. 347.

Reparation and rate together with minimum weight for the future are sought. Rates are stated in cents per 100 pounds.

A public hearing was held May 18, 1927, before Examiner Geary at Los Angeles, and the case having been duly submitted and briefs filed is now ready for our opinion and order.

Trona is 31 miles from Searles, the junction point with the Southern Pacific, and is located on the Trona Railway Company, a corporation controlled by complainant. Searles is on the Owenyo branch of the Southern Pacific 48 miles from Mojave and 417 miles from San Francisco. The traffic between Mojave and Searles is extremely light,

the grades are undulating, and the practice is to maintain higher rates on the Owenyo branch than on the main line.

The applicable rate of 77 cents is published in item 90 of Southern Pacific Company's Joint Freight Tariff 863-J C. R. C. 3086, and applies on barrels, casks, drums and kegs, wooden, also drums, fiberboard or pulpboard. The minimum weight in connection with the item is 15,000 pounds, subject to Rule 34 of Consolidated Classification No. 4. Under the provisions of Rule 34 the 15,000 pounds minimum applies to cars 36 feet 6 inches or less in length. For cars of greater length higher minimums are provided. For instance, cars over 39 feet 6 inches and under 40 feet 6 inches the minimum is 16,800 pounds; cars over 46 feet 6 inches and under 50 feet 6 inches in length the minimum is 24,300 pounds.

Wooden barrels are light articles and generally move on class rates. The carload ratings are third class on slack and fourth class on tight barrels. Minimum weights are 10,000 pounds and 12,000 pounds respectively, subject to the graduated minima provided by Rule 34 of the classification.

Third class rate from San Francisco to Trona is \$1.57, therefore the assailed rate of 77 cents is 48 per cent of the class rate applicable on slack barrels.

The record discloses that the shipments involved in this proceeding moved in seventeen 40-foot cars and three 50-foot cars, the actual weights ranging from 7912 pounds to 8880 pounds for the 40-foot cars and 8600 pounds to 8910 pounds for the 50-foot cars. It is evident that these latter cars were not loaded to full visible capacity; however, complainant states that 40-foot cars were ordered, and in order to avoid paying charges based on the minimum weight for a 50-foot car the full space capacity was not utilized.

Complainant compares the rate assailed with those on barrels and other containers from Los Angeles and San Francisco to destinations in California, Arizona, New Mexico and Utah, also between points east of the Rocky Mountains. Many of the rates shown are between points in Eastern and Middle Western territory, some of them between points in the states of New York and Pennsylvania where rate levels obtain which are generally lower than those in effect between the points involved, therefore do not reflect a proper comparison.

At the hearing it was developed that the rate assailed was established effective October 1, 1924, upon request of the traffic manager for complainant's predecessor, American Trona Company. A copy of his application requesting the establishment of a commodity rate was submitted as evidence subsequent to the hearing, and proposed a rate of 65 cents and a minimum weight of 14,000 pounds.

The present rate of 77 cents and minimum weight of 15,000 pounds yield a per car revenue of \$115.50, and the previously existing rate of \$1.57 with a minimum weight of 10,000 pounds yielding \$157, or \$41.50 less than that obtained under the rate effective prior to October 1, 1924.

Defendant Southern Pacific Company compares the rates on barrels and earnings thereunder with rates and earnings on other commodities moved from and to the points in the same general territory as Trona for comparable distances. Following is a list of commodities, rates, distances, etc., taken from defendant's exhibits:

Commodity	Miles	Rate per cwt. cents	Average loading, per car (lbs.)	Revenue, per car	Revenue per car, mile, cents
Barrels, from San Francisco to Trona----	448	77	16,800	\$129.36	28.9
40-foot car					
Bags, burlap, from San Francisco to Trona	448	105½	42,000	443.10	98.9
Pipe, wooden, from Oakland to West End--	416	63	30,000	189.00	45.4
Borax, from Trona to San Francisco-----	448	62	69,200	429.04	95.8
Soda ash, from Cartago to San Francisco	486	28½	80,200	228.57	47.0
Soda ash, from Cartago to Los Angeles--	218	21½	80,200	172.43	79.1

From the foregoing exhibits it is apparent that the revenue per car mile on barrels is low when compared with the revenue received for the transportation of other commodities moving from and to points in the vicinity of Trona.

The Interstate Commerce Commission in Case No. 12205, *Pioneer Cooperage Company vs. Baltimore & Ohio Railroad*, 68 I. C. C. 645, found the third class rate on slack barrels from St. Louis to Evansville, Louisville and Cincinnati not unreasonable. The distances and rates from St. Louis to these points were shown as follows:

Evansville, 165 miles, 49½ cents.

Louisville, 274 miles, 58½ cents.

Cincinnati, 339 miles, 61½ cents.

The matters involved in the case at issue are similar to those considered by the Federal Commission in Case No. 1934, *Montague & Company, vs. Atchison, Topeka and Santa Fe Railway et al.*, 17 I. C. C. 72, involving minimum weights and charges on furniture. In its decision the Commission said:

In dealing with the transportation of such a commodity the carrier may both for the purpose of securing the greatest possible use of the capacity of its car and for the purpose of protecting itself against an unduly low charge for a carload movement, established a minimum below which the carload rate shall not be applied. Nor is the minimum thus established of necessity unlawful, because it may happen in some instances that the weight prescribed can not by any possibility be put into the car. It is no hardship in such case to require the shipper to pay either the L. C. L. rate on the number of pounds actually shipped by him or the C. L. rate on the number of pounds fixed by the minimum.

The proposition of the defendants is that a minimum may be established which shall protect the carrier against being required to haul its car for less

than a fair compensation, and that so long as the combination of rate and minimum in a particular case does not yield to the railway more than a just sum for the transportation of the car, the minimum is not unlawful.

It is certain that the objective point is the charge to the shipper for the service, which is worked out by the combined application of rate and minimum. It would seem to follow, therefore, that there is a connection between the minimum and the rate. If the minimum is reduced the rate may be properly advanced, and if the minimum is increased the rate should be reduced. This principle has been observed in fixing the rates and the minimums applicable to the movement of many kinds of furniture, and within proper limits is a reasonable one.

From the testimony it is evident that slack barrels can not be loaded to the prescribed minimum, but tight barrels which are included in the same rate load to approximately the minimum weight.

It is a matter of record that the present rate is the combination Class B rate to and from Searles, made 55½ cents to Searles plus 21½ cents beyond, and these figures reduced to a percentage basis allow the Southern Pacific 72 per cent and Trona Railway 28 per cent.

Using a 36 foot 6 inch car as a basis the present rate and minimum weight yield revenue of \$115.50 per car, and per car mile revenue of 25.78 cents, and the proportion accruing to the Southern Pacific out of this charge is \$83.20 per car and 19.95 cents per car mile. If based on a minimum of 14,000 pounds, the minimum weight in general use on both interstate and intrastate traffic in this territory for commodity rates on barrels, the 77 cents rate yields revenue of \$107.80 per car and car mile revenue of 24.06 cents. The Southern Pacific Company's proportion based on 72 per cent of the through rate would be \$77.70 per car and 18.59 cents per car mile. The earnings of 18.59 cents per car mile for a haul of 417 miles compare favorably with revenue of \$51.80 per car and 16.55 cents per car mile earned on barrels moving from San Francisco to Bakersfield for a haul of 313 miles.

Defendant Trona Railway Company presented no evidence nor made any effort whatsoever to defend the case. The testimony given at the hearing developed that it and complainant are under the same management and control.

After giving consideration to all the evidence, exhibits and briefs we are of the opinion and find that the rate assailed is not excessive, unjust or unreasonable. We further find that the minimum of 15,000 pounds per 36 foot 6 inch car was, is and for the future will be excessive to the extent that it exceeds minimum weight of 14,000 pounds subject to the graduated minima provided by Rule 34 of the Consolidated Classification; that complainant made the shipments as described, paid and bore the charges thereon, and has been damaged in the amount of the difference between the charges paid and those which would have accrued at the rate and minimum herein found reasonable and that it is entitled to reparation with interest at 6 per cent per annum.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and the Commission having filed its opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company and Trona Railway Company, be and they are hereby notified and required to desist on or before twenty days from the date of this order and thereafter to abstain from publishing, maintaining and applying rate and minimum weight not in accordance with the opinion which precedes this order.

It is hereby further ordered, that defendants, Southern Pacific Company and Trona Railway Company, be and they are hereby notified and required to establish on or before twenty days from the date of this order, upon notice to this Commission and to the general public by not less than five days' filing and posting in the manner prescribed in section 14 of the Public Utilities Act, and thereafter to maintain and apply to the transportation of barrels, in carloads, the rate and minimum prescribed in the opinion which precedes this order.

It is hereby further ordered, that defendants, Southern Pacific Company and Trona Railway Company, according as they participated in the transportation, be and they are hereby instructed to refund with interest at the rate of 6 per cent per annum to complainant, American Potash and Chemical Corporation, all charges collected in excess of the rate and minimum herein found reasonable for the transportation of 20 carloads of slack wooden barrels moved from San Francisco to Trona during the period from March 9, 1925, to December 21, 1926, inclusive.

It is hereby further ordered, that as to all other respects the complaint in the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California this eighth day of August, 1927.

DECISION No. 18697.

ASSOCIATED OIL COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

18-52641

Case No. 2369.

Decided August 8, 1927.

RATES — STEAM RAILROAD — GREASE — LUBRICATING OIL — REPARATION. — Rates assailed found unreasonable, reparation ordered of all charges collected in excess of rates subsequently established.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the State of California, with its principal place of business at San Francisco, is engaged in the producing, refining and marketing of petroleum and petroleum products. By complaint filed May 21, 1927, amended June 20, 1927, it is alleged that the rates charged for the transportation of less carload shipments of lubricating oil shipped between March 10, 1924, and November 27, 1925, inclusive, aggregating a weight of approximately 430,261 pounds, and less carload shipments of petroleum grease shipped during the same period, aggregating a weight of approximately 25,328 pounds, from Avon to Santa Rosa were unreasonable to the extent they exceeded rates of $21\frac{1}{2}$ cents and $18\frac{1}{2}$ cents per 100 pounds, respectively.

The statute of limitation was stayed by informal petition, March 9, 1926, file I.C. No. 34671.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

Avon is on the Southern Pacific Western Division 3.4 miles east of Martinez and 7 miles east of Port Costa. Santa Rosa is on the Southern Pacific 67.7 miles north of Port Costa.

The Western Classification provides a third class rate on lubricating oil and fourth class on lubricating grease in less carload lots.

The applicable rates during the period of movement were constructed by use of a combination found in Southern Pacific tariff 333-G, C. R. C. 2496, item 10 of which provides for the application of Martinez class rates on shipments originating at Avon, made 7 cents to Port Costa plus $21\frac{1}{2}$ cents beyond, third class; and 6 cents to Port Costa plus $18\frac{1}{2}$ cents beyond, fourth class; the factors beyond Port Costa being found in Southern Pacific Company tariff 711-C, C. R. C. 2843.

At Oleum, 4.7 miles west of Port Costa, and at Richmond, 16.1 miles west, the Union Oil Company and Standard Oil Company, respectively, maintain storage and shipping facilities comparable to those of the complainant located at Avon, and prior to June 10, 1922, the rates from Oleum to Santa Rosa were applicable also from Avon as carried in defendant's tariff 333-F, C. R. C. 2395, Rule 5 (c), which rates were $21\frac{1}{2}$ cents third class and $18\frac{1}{2}$ cents fourth class.

By cancellation of Rule 5 (c), effective June 10, 1922, the combina-

tion rates as above set forth became the legally applicable rates from Avon, although the increases were unlawful, having been published without the authority of this Commission as required by section 63 of the Public Utilities Act.

On December 8, 1925, the defendant amended its tariff 333-G, C. R. C. 2496, and by item 10, provided for the application of the Richmond rates as maximum at Oleum, and thereby restored the original parity maintained between Oleum and Avon, which was unlawfully canceled June 10, 1922.

Complainant bases its plea for reparation upon the lower rates subsequently established, and the fact that the cancellation of Rule 5 (c) of defendant's tariff was unauthorized and resulted in unreasonable and excessive rates from Avon in violation of section 13 of the Public Utilities Act. Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rates assailed were unreasonable to the extent they exceeded the subsequently established rates of $21\frac{1}{2}$ cents third class and $18\frac{1}{2}$ cents fourth class. We further find that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rates herein found reasonable, and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund to complainant, Associated Oil Company, all charges it may have collected in excess of $21\frac{1}{2}$ cents on shipments of lubricating oil and $18\frac{1}{2}$ cents on lubricating grease involved in this proceeding and forwarded from Avon to Santa Rosa during the period from March 10, 1924, to November 27, 1925, inclusive.

Dated at San Francisco, California, this eighth day of August, 1927.

DECISION No. 18698.

CALIFORNIA PACKING CORPORATION

*vs.*SACRAMENTO NORTHERN RAILWAY AND THE WESTERN PACIFIC
RAILROAD COMPANY.

Case No. 2388.

Decided August 8, 1927.

RATES—RAILROAD—FRESH PEACHES.—Rate assailed found unreasonable to the extent it exceeded the subsequently established rate of 17 cents per 100 pounds.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the state of New York, with its principal place of business at San Francisco, California, is engaged in packing dried fruit and canned goods. By complaint filed July 14, 1927, it is alleged that the rate charged for the transportation of 37 carloads of fresh peaches from Yuba City to San Francisco during the period from July 21 to September 6, 1926, inclusive, was excessive and in violation of the Public Utilities Act to the extent it exceeded a rate of 17 cents.

Reparation only is sought. Rates are stated in cents per 100 pounds.

Charges were assessed and collected on the basis of 18½ cents, the lawfully applicable Class "C" rate, shown in Pacific Freight Tariff Bureau Tariff 34-K, C. R. C. 372. Effective July 3, 1927, defendants voluntarily established a commodity rate of 17 cents from and to the points involved and this rate was applicable via the Southern Pacific at the time the shipments involved in this complaint moved.

Complainant bases its plea for reparation upon the lower rate subsequently established. Defendants admit the allegation of the complaint and have signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unreasonable to the extent it exceeded the subsequently established rate of 17 cents. We further find that complainant paid and bore the charges on the shipments involved in this proceeding and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Sacramento Northern Railway and The Western Pacific Railroad Company according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, California Packing Corporation, all charges they may have collected in excess of 17 cents per 100 pounds on the carload shipments of fresh peaches involved in this proceeding, forwarded from Yuba City to San Francisco during the period from July 21 to September 6, 1926, inclusive.

Dated at San Francisco, California, this eighth day of August, 1927.

DECISION No. 18705.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING CANCELLATION OF VARIOUS RATES ON ORE, CONCENTRATES, SULPHURETS, ETC., CARLOADS BETWEEN VARIOUS CALIFORNIA POINTS IN TARIFF C. R. C. No. 2868 (S. P. Co. No. 635-D).

Application No. 13831.

Decided August 13, 1927.

RATES—STEAM RAILROAD—ORE PRODUCTS—TO CANCEL.—Applicant authorized to cancel commodity rates on ore and ore products applying to and from Keswick, Coram, Kennett and Pitt, as no longer necessary.

A. L. Whittle, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by the Southern Pacific Company under section 63 of the Public Utilities Act of the State of California for permission to cancel from its Tariff No. 635-D, C. R. C. No. 2868, some twenty-five items naming commodity rates on ore, bullion, concentrates, ore slimes, slag, sulphates, bag house fume, pyrites, copper blister, copper cement, manganese, copper matte and zinc, applying either to or from the stations of Keswick, Coram, Kennett and Pitt, as specifically set forth in Exhibit "A" and amendments one and two to the application. The applicable rates, after cancellation of the specific commodity rates, will be either the class rates or a combination of the class and commodity rates.

A public hearing was held at San Francisco August 5, 1927, before Examiner Geary, and the case being duly submitted is now ready for an opinion and order.

The usual publicity notices were issued, and in addition individual notification of hearings forwarded to the principal shippers of the commodities to be affected by the cancellation, but no one appeared in opposition to the application. Applicant introduced exhibits showing that there had been no movement of any of the commodities between the points involved, and its witness testified that the smelting plants at Keswick, Coram, Kennett and Pitt had ceased operations and the plants had been dismantled some time ago.

Upon consideration of all the facts of record we are of the opinion and find that the commodity rates sought to be canceled by this application are no longer necessary, are a burden in the tariffs, and we conclude that the application should be granted.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which is hereby referred to and made a part hereof;

It is hereby ordered, that the application of the Southern Pacific Company be and the same is hereby granted, and applicant is hereby authorized to cancel the commodity rates applying to and from Keswick, Coram, Kennett and Pitt as set forth in the application and as published in Southern Pacific Tariff No. 635-D, C. R. C. No. 2868.

Dated at San Francisco, California, this thirteenth day of August, 1927.

DECISION No. 18716.

IN THE MATTER OF THE APPLICATION OF MOTOR TRANSIT COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE OPERATION OF A SIGHT-SEEING SERVICE BETWEEN LOS ANGELES AND ORANGE COUNTY.

Application No. 13873.

Decided August 16, 1927.

CERTIFICATE—AUTO STAGES—SIGHT-SEEING SERVICE—SINGLE TERMINUS.—Certificate granted applicant to operate a sight-seeing trip from Los Angeles through Orange County and return, having but one terminus, Los Angeles.

W. H. Sanson and F. D. Howell, for Applicant.

Frank Karr, R. E. Wedekind and H. O. Marler, for Pacific Electric Railway Company.

Norman H. Robotham, for Pacific Coast Motor Coach Company.

BY THE COMMISSION.

OPINION.

This is an application under section 50½ of the Public Utilities Act for a certificate of public convenience and necessity to operate sight-seeing stages on a continuous sight-seeing trip from Los Angeles, through Orange County and return, having one terminus, namely, Los Angeles.

A public hearing was held before Examiner Vaughan at Los Angeles, at which time the matter was duly submitted, and is now ready for decision.

The route proposed is from Los Angeles to Long Beach via Downey; Coast Boulevard to Seal Beach, Sunset Beach, Huntington Beach, Newport, Balboa Beach and Laguna Beach, returning by way of Tustin to Santa Ana; Santa Ana to Orange via Main street, in and out of Orange by Orange street, Anaheim road to Anaheim and Fullerton; Brea road to Brea; Brea-La Habra road to La Habra; La Habra-Whittier road to Whittier; Whittier Boulevard to Los Angeles. This route is proposed for the entire year except during the warm summer season in the months of June, July, August and September, when the route is to be reversed, the object being to traverse the warmer portions in the forenoon, since the heat is not as great then as it is in the afternoon. The busses will leave Los Angeles at 9 a.m., arriving at Laguna Beach at 11.30, leaving Laguna Beach at 1 p.m., arriving at Los Angeles at 4 p.m. The fare for adults is \$3.50, and for children under twelve years of age \$2.05, which includes the price of luncheon at Laguna Beach. The localities through which the trip will be made will be described by a guide, employed by the applicant, and the stages will be met at most of the above named points by members of the local chambers of commerce, who will point out and describe the interesting features of their respective localities.

The service as above outlined was inaugurated on May, 15, 1927, which was prior to the effective date of section 50½ of the Public Utilities Act, and at which time no certificate of public convenience and necessity was required for such operation. During the last session of the legislature section 2½ was adopted, defining a transportation company so as to include sight-seeing operators, and the said section 50½ was also passed, requiring such operators to obtain a certificate of public convenience and necessity prior to rendering such service. On July 29, 1927, the effective date of this latter section, applicant discontinued the above-described service until such certificate could be obtained.

It is shown from the operations from May 15th to the date of discontinuance that there was a substantial development in the patronage of the tour, numbering from about four passengers on the first day to about twenty on the last. Ten witnesses were called on behalf of

applicant, all of whom testified as to the need of this service. Four of these witnesses, representing certain of the chambers of commerce of cities located in Orange County, testified to the effect that the service would undoubtedly be of great benefit to the county, basing this opinion upon the results of the past operations of applicant. All of these witnesses testified that they had interviewed a number of the patrons of the line, and had received expressions from the latter to the effect that the trip was one of general enjoyment and enlightenment. The testimony of two witnesses operating travel tourist bureaus shows that there have been many requests for information regarding this trip. There is no other one-day tour from Los Angeles to Laguna Beach and return; in fact, there is no other sight-seeing tour covering the route proposed by applicant.

At the outset of the hearing Pacific Coast Motor Coach Company entered a protest to the granting of the application, but later withdrew the same and, through its counsel, recommended that the application be granted. The Pacific Electric Railway Company, which appeared as an interested party, made a like recommendation through its counsel.

The applicant commenced this service upon the request of the Secretarial Association of Orange County, the latter being desirous of having such service in order to advertise its county as to its general beauty and resources. It is our opinion that public convenience and necessity require the operation of the service in question. An order will be entered accordingly.

ORDER.

An application, as above named and numbered, having been filed, a public hearing having been held thereon, the matter having been duly submitted, and being now ready for decision:

It is hereby found as a fact that public convenience and necessity require the operation by Motor Transit Company of a sight-seeing trip from Los Angeles through Orange County and return, having one terminus, namely, Los Angeles, over and along the following route:

From Los Angeles to Long Beach via Downey; Coast boulevard to Seal Beach, Sunset Beach, Huntington Beach, Newport, Balboa Beach and Laguna Beach.

Return—

Laguna Beach to Santa Ana via Tustin, Santa Ana to Orange via Main street, in and out of Orange by Orange street, Anaheim road to Anaheim and Fullerton, Brea road to Brea, Brea-La Habra road to La Habra, La Habra-Whittier road to Whittier, Whittier boulevard to Los Angeles.

With optional right to reverse route during hot summer months.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted to Motor Transit Company for such operations, subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

2. Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariffs of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this sixteenth day of August, 1927.

DECISION No. 18717.

IN THE MATTER OF THE APPLICATION OF FRED SUTHERLAND FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AUTOMOBILE PASSENGER SERVICE BETWEEN SAN DIEGO AND LA MESA AND INTERMEDIATE POINTS.

Application No. 13617.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND THE OPERATION OF ITS BUS SERVICE, AS A COMMON CARRIER, FROM FIFTY-SIXTH STREET, IN THE CITY OF SAN DIEGO, CALIFORNIA, ALONG EL CAJON AVENUE THEREIN TO AND INTO LA MESA, OUTSIDE OF THE CITY LIMITS OF SAID CITY OF SAN DIEGO.

Application No. 13783.

IN THE MATTER OF THE APPLICATION OF SAN DIEGO ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND ITS BUS OPERATION AND SERVICE, AS COMMON CARRIER, FROM THE JUNCTION OF IMPERIAL AVENUE AND THIRTY-FOURTH STREET IN THE CITY OF SAN DIEGO, ALONG IMPERIAL AVENUE TO LA MESA, OUTSIDE SAID CITY BUT WITHIN THE COUNTY OF SAN SAN DIEGO.

Application No. 13784.

Decided August 16, 1927.

CERTIFICATE—AUTO STAGES—SERVICE—To EXTEND.—Finding that public convenience and necessity do not require an additional passenger service from Beacon Hill to La Mesa, because of the existing service by El Cajon Stage Line and San Diego and Arizona Railway, the Commission authorizes Sutherland to extend his Encanto-Beacon Hill stage service to Spring Valley Junction, only, and denies both applications of San Diego Electric Railway Company.

Richard T. Eddy, for Fred Sutherland, Applicant in Application No. 13617 and Protestant in Applications Nos. 13783 and 13784.

Morrison, Hohfeld, Foerster, Shuman and Clark, by *Forrest A. Cobb*, for San Diego Electric Railway Company. Applicant in Applications Nos. 13783 and 13784, and Protestant in Application No. 13617.

Warren E. Libby, for Hubert Adams' El Cajon Stage Line, Protestant in Application No. 13617.

Read G. Dilworth, for San Diego and Arizona Railway Company, Protestant in all Applications.

Elmer G. Blossom, for La Mesa Chamber of Commerce, Interested Party.

BY THE COMMISSION.

OPINION.

Fred Sutherland has made application to the Railroad Commission for a certificate of public convenience and necessity to operate automobile passenger service between San Diego and La Mesa via El Cajon avenue and University avenue, parallel streets, and also via Lemon Grove, as an extension of service now maintained by him between San Diego and Encanto via Imperial avenue.

San Diego Electric Railway Company, a corporation, has made application to the Railroad Commission for authority to establish automobile service for the transportation of passengers between San Diego and La Mesa via El Cajon avenue by extension of its existing bus line in the city of San Diego now terminating at Fifty-sixth street, and also by a bus line extending from its street car service terminating at Imperial avenue and Thirty-fourth street, via Encanto, Beacon Hill and Lemon Grove.

Applicant San Diego Electric Railway offers free universal transfers from its proposed service to all its rail and bus lines in contact. Applicant Sutherland in his amended Exhibit "A" also provided for transfer to his lines within the city, but this offer was withdrawn and applicant stipulated that he would do no business between points within the city.

Public hearings herein were conducted by Examiner Williams at San Diego on May 23, 24 and 25, 1927. By stipulation of all parties, the applications were consolidated for hearing and decision.

La Mesa is a residential, nonindustrial community about four miles east of the city limits of San Diego, having a population of approximately 3000 in the incorporated area, with an additional population of about 2000 in its environs. Transportation between this community and San Diego is now provided by the San Diego and Arizona Railway, operating gasoline cars from Lakeside through Lemon Grove and Encanto, and also by the El Cajon Stage Line, Hubert Adams, owner, operating from El Cajon through La Mesa via Cajon avenue into the

heart of the business district of San Diego. These services have been established for many years.

Applicants herein propose to operate service competitive with the existing services by the establishment of new lines covering practically the same routing, but offering different classes of service and different time schedules.

Applicant Sutherland proposes a rate of 30 cents one way between Third and Broadway, San Diego, and La Mesa by either of the three routes proposed with a round trip rate of 50 cents, and with proportionate intermediate rates broken on a 5-cent basis approximately each mile, and suitable commutation rates.

San Diego Electric Railway Company in its application provided for a rate considerably in excess of the rate proposed by applicant Sutherland or charged by existing services, but this was amended at the beginning of the hearing by an amended exhibit proposing a rate of 35 cents between Fifth and Broadway, San Diego, and La Mesa, with a round trip of 50 cents from its inner zone and 55 cents from its outer zone (established for rail service), and with a weekly pass rate of \$2.25, broken down to the various mile distances, until the weekly rate from Fifty-sixth street is \$1.25. All of these rates entitle the passenger to free universal transfer to all rail and bus lines of the San Diego Electric Railway.

The present rate charged by the El Cajon Stage Line between La Mesa and San Diego is 35 cents, without breaking down fares.

The rates of the San Diego and Arizona Railway Company between La Mesa and San Diego via the Imperial avenue route through Spring Valley, Lemon Grove and Encanto are 35 cents.

Applicant Sutherland offers hourly service from 6 a.m. to midnight on each route, alternating the service so that La Mesa will have one car leaving for San Diego, or vice versa, each half hour. Applicant San Diego Electric Railway offers an hourly schedule, beginning at 6 a.m. from San Diego and 6.30 a.m. from La Mesa, and operating until midnight over the El Cajon avenue route. This schedule is reversed in the operation over the Imperial avenue route.

Protestant El Cajon Stage Line operates four schedules daily, leaving La Mesa at 8.15, 10.45, 1.45 and 4.15, and leaving San Diego at 9, 12, 2.30 and 5.15. Special schedules leaving La Mesa at 7.15 p.m. and San Diego at 11.15 p.m. are operated on Saturdays and Sundays only, and on Wednesdays a special schedule approximately the same is operated.

The San Diego and Arizona Railway operates four gasoline train services daily, with an extra service leaving San Diego in the evening on Wednesdays, Saturdays and Sundays. At one time this carrier operated twelve daily schedules.

It thus appears that La Mesa is now served by direct service of two carriers, but has not the advantage of early morning or late evening service, which is a part of the continuous operations proposed by applicants herein. It would seem that two services of these types would be adequate for a community of 3000 to 5000 inhabitants, if properly coordinated. The record shows that for many months previous to the hearing, efforts were made by officers of the La Mesa Chamber of Commerce to bring about a readjustment of schedules by both carriers, in order to alternate them in such manner that the service would be improved. The record is equally plain that these endeavors met with no success and that each carrier declined to yield its schedules for the benefit of the other. The schedules of four times daily maintained by each carrier were very similar as to hours and resulted in divided patronage, most of which seems now to have gone to the stage line. Both carriers contended at the hearing that the use of the private automobile made additional schedules unnecessary, and that those now maintained are not profitable. Each produced statistics showing losses, the San Diego and Arizona Railway showing a net loss of \$5,385 for the year 1926, not including depreciation, overhead or maintenance of way. Exhibits were filed by both carriers showing their operations in detail, protestant Adams reporting a loss, including all charges, of approximately \$1,900. This protestant suffered somewhat from competition within the city of San Diego subsequent to the annexation of large areas on the west, but there has been no competition as regards the service of the San Diego and Arizona Railway between La Mesa and Encanto.

A written protest was filed by the San Diego and Arizona Railway Company. This carrier states that it has maintained service between La Mesa and San Diego for forty years, and that if further competition is permitted, its passenger service ultimately will have to be discontinued.

The question of additional service was presented first in the application of Fred Sutherland, whose offer is to conduct hourly service between his terminal at Third and Broadway in the city of San Diego and La Mesa, by way of Fourth street and University avenue to La Mesa, and also by diverting from University avenue at Normal street to El Cajon avenue. Both routes are paved and equally suitable for the operation proposed. The class of equipment to be used by applicant Sutherland (Fageol safety coaches) is the same as that used by him in his established service, under authority of this Commission, between San Diego and Tia Juana, Coronado and Tia Juana, San Diego and Chula Vista, San Diego and Encanto and San Diego and La Jolla, the latter service being now entirely within the city of San Diego.

Subsequent to the filing of the Sutherland application, the San Diego

Electric Railway Company presented its application for authority to conduct similar service by way of El Cajon avenue and Imperial avenue via Encanto and Lemon Grove, but not via University avenue. While the hearing of the applications was being conducted at San Diego, it was disclosed by applicant San Diego Electric Railway Company that it had entered into an agreement to purchase the operation conducted by Hubert Adams under the name of El Cajon Stage Line, which serves La Mesa, and this transfer of interest was approved by this Commission in its Decision No. 18521, dated June 15, 1927, on Application No. 13832, subsequent, of course, to the submission of the matters herein involved. The acquisition of the Adams line by the San Diego Electric Railway eliminated this protestant and materially affected the situation as previously submitted, for if the application of the San Diego Electric Railway were granted, it would place this applicant in the position of establishing competing service with itself, both as to rail and stage. This carrier now uses the same kind of equipment as applicant Sutherland.

The record presented offers little difference in the character of the service to be given or the kind of equipment to be used by applicants, each proposing to use 25 to 29-passenger safety coaches and to conduct the service to practically the same terminals and over the same routes. The schedules of fares presented do not show any serious differences.

The distance between First and Broadway, San Diego, and El Cajon via El Cajon and University avenues, is approximately $11\frac{1}{2}$ miles. The distance from the same point via Imperial avenue and Lemon Grove is approximately $12\frac{1}{2}$ miles.

Applicant Sutherland, testified in his own behalf, explaining that his application had resulted from requests received from the Chamber of Commerce of La Mesa, Lemon Grove and La Mesa Heights probably a year previous to its filing. Applicant testified that he made an investigation of the traffic situation and the other services conducted, and held many conferences with representatives of the communities interested in transportation, personally or through his representatives. He testified that, in addition, he had sent out circular letters to residents of all the communities, requesting their opinion as to the service proposed by him, and had received affirmative replies. He testified that he found that residents of La Mesa and its environs, including La Mesa Heights and Lemon Grove, could not reach San Diego earlier than 9 o'clock in the morning and had no means of getting back later than 5.15 in the afternoon, except on Sundays, when there was both stage and rail service leaving San Diego at 11 and 11.15 p.m. He further testified that he had made a careful estimate of the traffic available and thought it was sufficient to support the operation on its out-of-pocket cost, which would be \$70 per day. He estimated that the busses could be

operated on a basis of 14 to 16 cents per mile, not including overhead, and stated that there would be practically no cost for overhead, as this is already maintained for his other operations and is ample to assimilate the proposed operation without increasing the cost. Applicant testified that in his operation of the line between San Diego and Chula Vista he had maintained a losing service for several years, but that since the abandonment of service by the San Diego Electric Railway Company he had brought this operation to a profitable basis, with daily receipts of approximately \$150.

On cross-examination applicant Sutherland testified that he had taken over from the Pickwick Stages the operation of a line between San Diego and La Jolla, originally an interurban service under the jurisdiction of this Commission, but now, due to annexation, entirely within the city of San Diego. He testified that when he took over this service the receipts were slightly over \$300 per month and the operation was being conducted at a loss. By putting on an hourly schedule, which a few months later was changed to a half-hourly schedule, he testified that the revenues had multiplied almost twelve times, and he cited the receipts of January, 1927, \$3,776.70, and February, 1927, \$3,628.50, in substantiation of his claim of increased business. In explaining this remarkable increase in less than a year, applicant testified that his policy in conducting business was to offer a service that would attract all classes of patrons. He stated that he did not regard the parallel operations of the San Diego Electric Railway to La Jolla as competitive with his stage service, but that his real competitor was the privately owned automobile, and that in establishing time schedules and rates he sought to make the service so attractive and at such a cost that the private automobile owner would prefer it to his own vehicle. In making this explanation applicant stated that the rail service given by the San Diego Electric Railway is an excellent service in all respects. The foregoing facts were cited by applicant as characteristic of what he expected to accomplish in giving the service proposed to La Mesa. The population of the La Jolla district is comparable with that of La Mesa, and Mr. Sutherland testified that he regarded the La Jolla and Chula Vista operation as typical of what could be done with the La Mesa operation.

In support of the Sutherland application, applicant presented the testimony of Elmer G. Blossom, former president of the La Mesa Chamber of Commerce; Reuben M. Levy, William T. Owen, J. D. O'Brien, Frank C. Lewis, Harry Park, K. M. Ladewig, president of the La Mesa Chamber of Commerce; Pearl M. O'Brien, Raymond B. Whitcomb, Emery M. Westbrook, Irving C. Veall, Mrs. B. B. Pohlman, Mrs. Lily K. Hunter, Margaret B. Webster, Miss Faith Scudder, Caroline M. Gatecliff, Mrs. Evangeline Graham, Edward C. Upp, Ira C. Robinson,

Joseph M. Vandenberg, H. A. Lavezzi and Chas. F. Gates, all residents of La Mesa or La Mesa Heights. In addition, it was stipulated that the testimony of fifteen other witnesses who were present in the court room but were not called to the stand, would be substantially the same as that of the witnesses who were examined. These witnesses were all supporting the services via the El Cajon-University avenue route.

In support of the service via the Imperial avenue route, applicant Sutherland presented the following witnesses, all residing at Lemon Grove, Spring Valley or other points between Encanto and La Mesa: C. V. Rhoades, Mrs. Lily Abbott, Mary H. Tanner, Amanda E. Karsten, Frances M. Tait, William H. Sperry, postmaster at Spring Valley; Ronald Smith, Redrik Hofgaard, John H. Halley, Sherman G. Ray, C. F. Neyer, J. C. Colquhon, Mrs. Ann Tanner, Mrs. H. V. Parfitt, W. A. Braden, Joseph Wishmeyer, George Evans and Miss Seaford. The testimony of some of these witnesses was received by stipulation.

In substance the testimony was that the service now available between La Mesa and San Diego is inadequate because of the growth of the region served in and about La Mesa, and the desire of many persons to live in this attractive region and at the same time have proper facilities for reaching their business or employment in San Diego. The stage service, it was shown, is provided by the El Cajon Stage Line, which operates four schedules daily and does not operate special service into La Mesa. The schedules of the San Diego and Arizona Railway, according to the witnesses, do not fit in with the needs of the community, and frequent conferences between public bodies and these carriers have not brought the desired changes. The service of both these carriers is a through service to points beyond La Mesa, but the schedules of neither, witnesses complained, permit of early or late transportation between the terminals, nor do they provide sufficiently frequent service during the day. It was disclosed by their testimony that for several months the La Mesa Chamber of Commerce has been conferring with the carriers in an effort to obtain increased service, without result, each carrier maintaining that its service was the best that could be given, considering the patronage offered. Upon the failure of negotiations with these carriers, witnesses—particularly Elmer G. Blossom, Reuben M. Levy and K. M. Ladewig, all officers of the La Mesa Chamber of Commerce—testified that efforts were made to induce applicant Sutherland to establish a direct separate service, and he was aided in every way in his investigation of the traffic probabilities. Admittedly the service is required almost exclusively for those communities east of the San Diego city limits and in the belt beginning along El Cajon road in La Mesa Heights and extending in a southerly curve south to the community of Beacon Hill, including La Mesa, Lemon Grove and Spring Valley.

A review of the testimony of these witnesses as to the lack of adequate facilities for reaching or returning from their places of employment in the city of San Diego, or for other purposes, shows conclusively, we believe, a need of better service than is now provided by either carrier protesting the applications herein, neither of whom has presented any offer of better schedules than are now in operation. True, the San Diego and Arizona Railway, through the testimony of F. B. Dorsey, its passenger traffic manager, offered to adopt and put into effect any schedules which the Railroad Commission might see fit to propose, conditioned on testing them by a trial period of operation. This carrier has served this region for forty years and this Commission can not find in the experience of this carrier any basis by schedule-making for meeting the constant decline in passenger patronage. The public seems to have chosen other methods of transportation, including the privately owned automobile, in preference to that offered by this protestant.

The question to be determined in the instant proceeding, therefore, appears to be which of the two applicants before us is in the better position to give the service necessary for the La Mesa region. We believe the record justifies the conclusion that additional service could be provided adequately and efficiently by either of the applicants, but we do not think there is justification for the granting of additional competitive rights as between them. The applications presented by the San Diego Electric Railway Company are frankly stated to represent an effort on the part of this carrier to occupy the entire transportation field in the city of San Diego and its environs. This company has maintained electric operation for many years and has made many extensions into newly developed and newly annexed territory. In addition, under the orders of this Commission this applicant has established many auxiliary bus services where it was not expedient or financially feasible to make electric line extensions.

In behalf of this applicant, its council during proceedings made the following statement:

* * * The San Diego Electric Corporation is permanently in the transportation business in this community, with a large investment exceeding many times over the investment of any other applicant in this proceeding, and permanently committed to serve the transportation needs of this community. That position necessarily carries with it a complete willingness, as the community develops and its needs expand, to extend its lines and increase its service and facilities to meet these different situations as they arise. The territory included within the proposed application now before the Commission is territory that lies within the direct path of development of this community, and that is the precise territory towards which the San Diego Electric Railway Company's large investment and facilities are directed.

Further discussing its offer of service, counsel for the San Diego Electric Railway Company, said:

* * * If the Railroad Commission of California should disagree with us as to the adequacy of a service of that sort to La Mesa, then we will match

with those people out there in order to preserve our priority, we will match for them everything that Mr. Sutherland will offer to do for them; we will give them the identical schedule, the identical service, and we will give them through service; in other words, we will assume whatever loss in the operation of that service out there the Railroad Commission thinks that anyone should bear, in order to preserve our priorities in that field.

This statement was subsequently amplified by the testimony of S. E. Mason, general manager of the San Diego Electric Railway Company. By his testimony it was shown that the San Diego Electric Railway Company now operates a bus extension on El Cajon avenue to Fifty-sixth street, within 3.81 miles of the center of La Mesa. He further testified that this applicant now has an investment of \$8,700,000 in operative property; also that it maintains a bus line in extension of its Imperial avenue rail line from Thirty-fourth to Fortieth streets as auxiliary service.

On behalf of Mr. Sutherland it was urged that he, too, is in the transportation business in the city of San Diego and had only sought operating rights to La Mesa after failure of any other carrier to meet its responsibilities, particularly the San Diego Electric Railway Company.

As before stated, the San Diego Electric Railway Company is now owner of the El Cajon Stage Line, which operates over one of the routes sought herein, and which, properly operated, will, in our opinion, give adequate service by this route to the people of La Mesa and those residing along El Cajon avenue, into and out of the city of San Diego. It may permit the reduction of the auxiliary bus service by the San Diego Electric Railway now maintained on El Cajon avenue to Fifty-sixth street, and, by proper coordination with the electric lines, become a very important facility in the service of the public. We think the testimony is clear that the University avenue route does not possess tributary population beyond the city limits (eight miles from Third and Broadway) and could only be used as a through route from La Mesa to the center of San Diego, and is not a route that justifies another competitive service such as applicant Sutherland proposes. Nor does it appear that any more than one frequent and rapid bus service is required by the public. According to Exhibit No. 4, filed in behalf of the El Cajon Stage Line, 19,518 passengers were transported between La Mesa and San Diego during the year 1926, with receipts of \$6,343, or \$17.38 per day. These figures were based on gross business and 50 per cent of the gross revenue was assumed as approximate for La Mesa traffic after a 41-day traffic count, from April 5 to May 15, 1927. This check showed an average of 4.6 passengers per trip eastbound and 5.6 per trip westbound. The average of all business of this line from El Cajon, including La Mesa and all intermediates, was 7.8 eastbound and 8.9 westbound. On each trip a vehicle having 28

seats was used. Eighteen-hour daily service by one carrier on an hourly schedule would, therefore, require a large augmentation of business to support it. Certainly there is nothing in this showing to justify the half-hourly service proposed by applicant Sutherland over three routes, one of which parallels the line of protestant San Diego and Arizona Railway, whose gasoline cars seat 88 and whose maximum average on any trip in 1926 was 29.5, and that average on the only trip that approximated a profit, according to the testimony of F. B. Dorsey; and this average included all traffic between Lakeside and San Diego and intermediates, including La Mesa. In addition, protestant Adams, operating El Cajon Stage Line, testified that he had put on additional schedules for a period of 90 days, advertised the fact in his stations and busses and in a newspaper, but at the end of the period had not gained in traffic volume. These facts are convincing that this Commission should not authorize imprudent operations, no matter how alluring they may appear to applicants.

We believe, therefore, that the applications of both Sutherland and the San Diego Electric Railway Company for additional operative rights between San Diego and La Mesa via the University avenue and El Cajon avenue route should be denied. The San Diego Electric Railway, under its offer as previously quoted herein, should use the El Cajon Stage Line for frequent service over this route to and from La Mesa; in any event, not less than hourly service, with universal transfer to its rail and bus service.

A review of the testimony concerning the southern route presents an inverse situation. Applicant Sutherland now maintains efficient service under authority of this Commission between San Diego and Beacon Hill, a community about one mile beyond Encanto, and $7\frac{1}{2}$ miles distant from San Diego. The San Diego Electric Railway maintains a rail service on Imperial avenue to Thirty-fourth street and has auxiliary bus service to Fortieth street, a total distance of 4 miles. Both of these carriers propose to extend their present service through Lemon Grove to La Mesa. The extension offered by applicant Sutherland would be a through bus service. As to whether or not this service should be extended to La Mesa, we are of the opinion that it should not extend that far at the present time. The San Diego Electric Railway, operating over the northern route, is occupying a field which it has declared its intention to occupy, and this is a region in which applicant Sutherland has no established operation. He has, however, a service now within five miles of La Mesa, which by extension could very rapidly give service to this community, but we do not believe another carrier should enter this terminal in competition with the El Cajon Stage Line and the San Diego and Arizona Railway. For this reason applicant Sutherland at this time will be authorized to extend his Encanto-Beacon Hill

stage service only to Spring Valley Junction, a distance of about one mile from La Mesa, and thus meet the demand for service from this point and Lemon Grove and intermediate points, which the record shows to be necessary. An order will be entered accordingly.

ORDER.

Fred Sutherland having made application to the Railroad Commission for a certificate of public convenience and necessity to operate automobile passenger service between San Diego and La Mesa and intermediate points, public hearings having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by applicant Fred Sutherland of automobile stage service for the transportation of passengers between Beacon Hill and Spring Valley, as an extension of applicant's present operation into Beacon Hill, and for no other service, over and along the following route:

Via Imperial avenue; and

It is hereby ordered, that a certificate of public convenience and necessity for such service be and the same hereby is granted to applicant Fred Sutherland, subject to the following conditions:

1. Applicant shall file with this Commission, within a period of not to exceed ten days from date hereof, his written acceptance of the certificate herein granted as an extension and enlargement of his present operative rights, and not as a new or separate operative right.

2. Applicant shall file, in duplicate, within a period of not to exceed twenty days from date hereof, tariff of rates and time schedules, such tariff of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of the service herein authorized within a period of not to exceed sixty days from date hereof.

3. The rights and privileges herein authorized may not be sold, leased, transferred or assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

4. No vehicle may be operated by applicant herein under the authority hereby granted unless such vehicle is owned by applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that in all other respects the application herein be and the same hereby is denied.

San Diego Electric Railway Company, a corporation, having made application to the Railroad Commission for a certificate of public con-

venience and necessity to extend the operation of its bus service, as a common carrier, from Fifty-sixth street in the city of San Diego, along El Cajon avenue to La Mesa, and also for authority to extend its bus operation, as a common carrier, from the junction of Imperial avenue and Thirty-fourth street in the city of San Diego, along Imperial avenue to La Mesa, public hearings having been held, the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation by applicant San Diego Electric Railway Company, a corporation, of the services as proposed by applicant; and

It is hereby ordered, that the applications and each of them be and the same hereby are denied.

For all purposes except as hereinbefore stated, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this sixteenth day of August, 1927.

DECISION No. 18721.

IN THE MATTER OF THE APPLICATION OF THE HAINES CANYON WATER COMPANY, A CORPORATION, FOR INCREASE OF RATES.

Application No. 13572.

Decided August 17, 1927.

RATES—WATER UTILITY—TO INCREASE—EMERGENCY SURCHARGE—Application for immediate relief by means of an emergency surcharge, denied, as not being warranted by the evidence now before the Commission.

WHITSELL, *Commissioner*.

PRELIMINARY OPINION AND ORDER.

Haines Canyon Water Company, a corporation, engaged in the public utility business of supplying water for domestic and commercial purposes in and in the vicinity of the incorporated City of Tujunga in Los Angeles County, has applied to this Commission for authority to increase its schedule of rates and has also requested the establishment of an emergency surcharge increasing present rates pending the final decision of the Commission on the original application.

A public hearing in this matter was held on June 24, 1927, at Los Angeles, after all interested parties had been duly notified and given an opportunity to appear and be heard, and evidence was submitted by applicant and also by one of the Commission's engineers. The matter was not submitted, however, but set for an adjourned hearing on August 26, 1927.

After careful consideration of the record presented, it appears that the evidence is insufficient to justify the finding that an emergency

exists warranting the authorization of a surcharge over present rates for water service.

The following form of order therefore is submitted:

PRELIMINARY ORDER.

Haines Canyon Water Company, a corporation, having applied to this Commission for authority to increase the rates charged for water service rendered to its consumers in and in the vicinity of the city of Tujunga in Los Angeles County and having also requested the authorization of an emergency surcharge increasing existing rates, effective immediately, and, it appearing that the evidence now before the Commission is insufficient to warrant the granting of such a surcharge and that the request should be denied without prejudice;

It is hereby ordered, that the request of Haines Canyon Water Company, a corporation, for the establishment of an emergency surcharge increasing existing rates charged for water service rendered to its consumers be and it is hereby denied without prejudice.

The foregoing preliminary opinion and order are hereby approved and ordered filed as the preliminary opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventeenth day of August, 1927.

DECISION No. 18733.

IN THE MATTER OF THE APPLICATION OF EDWARD MILLER AND GUSIE I. MILLER, COPARTNERS DOING BUSINESS UNDER THE NAME OF THE MILLER LAUNCH COMPANY, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE VESSELS FOR THE TRANSPORTATION OF SALT FOR COMPENSATION BETWEEN MT. EDEN AND SAN FRANCISCO, PETALUMA AND MARE ISLAND NAVY YARD—VALLEJO.

Application No. 13677.

Decided August 18, 1927.

CERTIFICATE—CARRIER BY WATER—INLAND WATERS.—Application granted.

L. C. Pistolesi, for Applicants.

BY THE COMMISSION.

OPINION.

By application filed April 7, 1927, Edward Miller and Gusie I. Miller, copartners doing business under the fictitious name of Miller Launch Company, apply for a certificate of public convenience and necessity to operate vessels for the transportation of salt between Mt. Eden Salt Works on the one hand and San Francisco, Petaluma, Mare Island and Vallejo on the other.

A public hearing was held before Examiner Geary at San Francisco August 11th, and the application having been duly subscribed is now ready for our opinion and order.

Edward Miller, the first named partner, has been engaged for the past twenty years by water carrier transportation companies operating between points in the San Francisco bay districts, and in conjunction with his partner purchased on March 11, 1927, the launches and lighters formerly owned and operated by George Lewis under tariffs on file with this Commission. The evidence indicates that the lighters secured by this applicant have been utilized for the transportation of salt between the points set forth in this application for a number of years, and it is this applicant's intention to continue the operations. It appears that when the vessels were purchased applicant was under the belief that the operative rights held by the former owner would transfer automatically, and this application was filed after being informed that section 50(d) of the Public Utilities Act does not confer authority to transfer operative rights, a new certificate of public convenience and necessity being required under the provisions of the statute.

A witness for applicant testified that the service was rendered only when called for by the salt manufacturers and averaged from 1500 to 1800 tons a month, most of the tonnage moving to San Francisco, with only an occasional trip to Petaluma and Mare Island. The vessels employed are special in construction and only used in the salt business.

There was no opposition to the granting of the application.

Upon consideration of all the facts of record we are of the opinion and find that public convenience and necessity require the operation by applicants of launches and lighters for the transportation of salt between Mt. Eden Salt Works and San Francisco, Petaluma, Mare Island and Vallejo. The application should be granted.

ORDER.

A public hearing having been held in the above entitled proceeding, the application having been submitted and now being ready for a decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by applicants, Edward Miller and Gusie I. Miller, copartners operating under the fictitious name of Miller Launch Company, of vessels for the transportation of salt between Mt. Eden, San Francisco, Petaluma, Mare Island and Vallejo.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted, subject to the following conditions: That applicants shall publish and file a tariff constructed according to the rules of this Commission, setting forth the rates,

rules and regulations governing the transportation of salt, which shall be those shown in Exhibit "B" attached to the application.

Dated at San Francisco, California, this eighteenth day of August, 1927.

DECISION No. 18734.

IN THE MATTER OF THE APPLICATION OF R. C. DEARBORN AS AGENT FOR CALIFORNIA CARRIERS, PARTIES TO NATIONAL PERISHABLE FREIGHT COMMITTEE PERISHABLE PROTECTIVE TARIFF NO. 3, C. R. C. NO. 2, FOR AN ORDER AUTHORIZING CARRIERS TO PUBLISH A CHARGE FOR ICE SUPPLIED TO LESS THAN CARLOAD SHIPMENTS DELAYED IN UNLOADING AT DESTINATION POINTS.

Application No. 13698.

Decided August 18, 1927.

RATES—STEAM RAILROAD—PERISHABLE FREIGHT—ICING.—Carriers authorized to publish charge for ice supplied to less than carload shipments delayed in unloading at destination points.

F. W. Mielke, for Southern Pacific Company, Applicant.
L. H. Wolters, for Golden State Milk Products Company, Protestant.
Edson Able, for California Farm Bureau Federation.

BY THE COMMISSION.

OPINION.

This is an application filed April 4, 1927, by the National Perishable Freight Committee, by R. C. Dearborn, agent on behalf of all interested carriers under the provisions of section 63 of the Public Utilities Act for permission to establish, in National Perishable Freight Committee, Perishable Protective Tariff No. 3, C. R. C. No. 2, Paragraph (H) to Rule No. 630-C. The paragraph reads as follows:

After arrival of car at final destination and tender to consignee for delivery, and up to the time car is in process of unloading on team tracks, or until car has been placed on private or assigned siding, carriers will examine bunkers or tanks daily, and unless written instructions from shipper, owner or consignee are received to the contrary, when such cars require additional ice or ice and salt during such period they will be reiced to capacity. (See Rule 105 of Tariff.) The charges for ice or ice and salt will be in accordance with the charges published in section No. 4 (Table No. 125, Items 11100 to 11156, inclusive of tariff, or as amended.) Before reicing cars at destination carriers will make reasonable effort to secure instructions from consignee.

A public hearing was held before Examiner Geary at San Francisco August 9, 1927, and the application having been duly submitted is ready for our opinion and order.

This paragraph to Rule 630 was first published in Supplement No. 8, effective January 10, 1927, and was flagged as bringing about both reductions and advances. Interested shippers protested, claiming that the advances in the charges were unjust, and the paragraph was suspended pending action on the formal docket. This rule published in sec-

tion No. 6 of the tariff makes special provisions governing less than carload shipments in individual cars of commodities under refrigeration forwarded from one consignor at one point of origin to one or more consignees at one or more destinations, with the freight charges assessed on the basis of not less than 15,000 pounds per car. It is governed by Rule 600, which provides that no charge will be made for the services of icing or reicing. Applicants' contention is that paragraph (H) in actual effect brings about neither increases nor reductions, and is being published to clarify the tariff.

Under the rule as now published some shippers have contended that carriers must protect the commodities by proper refrigeration until the car is completely unloaded, including the period of time after delivery of the lading has been accepted by the consignee. It is applicants' contention that the tariff can not be interpreted as providing this privilege, and also that refrigerator cars should not be kept out of the transportation service and employed as cold storage plants for consignees who fail to unload within the free time limit. However, delays in unloading this class of perishable freight are not of frequent occurrence in California.

The paragraph proposed is now in effect on interstate traffic and also within all states of the United States except California.

Protestants offered no testimony in opposition to the changes, but in their cross-examination of witnesses and in the arguments contended that refrigerated less-than-carload shipments should be given the same protection during the period of unloading as is provided for straight carloads of perishable freight under the provisions of Rule 225 of section 2 of the tariff, which rule provides that the bunkers will be three-fourths full upon arrival on the delivery tracks.

Applicants amended the petition and stipulated that paragraph (H) of Rule 630 would be governed by the same service and unloading privileges as is now provided for carload shipments under the provisions of Rule 225 of the tariff. Protestants approved the stipulation and withdrew all objections.

After careful consideration of all the evidence we are of the opinion that the application as amended should be granted.

ORDER.

The National Perishable Freight Committee, by R. C. Dearborn, agent, on behalf of all interested carriers having filed an application for permission to publish and establish paragraph (H) to Rule 630 of Perishable Protective Tariff No. 3, C. R. C. No. 2, and a regular hearing having been held, and basing its conclusions on the opinion which precedes this order;

It is hereby ordered, that the said application as amended at the hearing be and the same is hereby granted.

Dated at San Francisco, California, this eighteenth day of August, 1927.

DECISION No. 18743.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TELEPHONE AND LIGHT COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING APPLICANT TO ISSUE, SELL AND DELIVER ITS FIRST MORTGAGE SIX PER CENT GOLD BONDS MATURING APRIL 1, 1943, TO THE FACE AMOUNT OF FOUR HUNDRED AND TWO THOUSAND DOLLARS AND TO USE THE PROCEEDS THEREOF FOR THE PURPOSES HEREIN INDICATED.

Application No. 13902.

Decided August 19, 1927.

SECURITIES—BONDS—To Issue.—Application granted.

C. P. Cutton and *R. W. DuVal*, by *R. W. DuVal*, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding the Railroad Commission is asked to make an order authorizing California Telephone and Light Company to issue and sell, at not less than face value plus accrued interest, \$402,000 of its first mortgage 6 per cent bonds due April 1, 1943.

California Telephone and Light Company was organized on or about November 23, 1911, with an authorized capital stock of \$10,000,000 divided into \$6,000,000 of common stock and \$4,000,000 of 6 per cent cumulative preferred stock. Of these amounts it reports outstanding \$764,850 of the common stock and \$550,031.91 of the preferred, all of which, excepting directors' shares, is reported held by Pacific Gas and Electric Company.

In addition to the stock the company reports, as of May 31, 1927, funded debt of \$1,059,100 and current liabilities of \$473,239.44. Of the funded debt, which consists of first mortgage 6 per cent bonds similar to those proposed to be issued, \$334,000 are held by Pacific Gas and Electric Company, or are held in some of its sinking funds, and \$725,100 are in the hands of the public. The current liabilities include the following:

Due Pacific Gas and Electric Company	\$426,676 26
Consumers' deposits	29,070 84
Miscellaneous accounts payable	81 82
Interest and taxes accrued	15,367 52
Coupons due and unpaid	2,043 00
Total	\$473,239 44

In making this request to issue additional bonds the company reports that during the period from September 1, 1926, to May 31, 1927, it expended for additions and betterments, as shown in detail in Exhibit No. 1, the sum of \$462,166.73, which has not been paid or provided through the issue of stock or bonds. Although the company asks permission to use the proceeds from the sale of its bonds to reimburse its treasury on account of such expenditures and/or pay indebtedness incurred in making such expenditures it appears that all the proceeds will be used to reduce the amount due Pacific Gas and Electric Company. The order herein accordingly will so provide.

ORDER.

California Telephone and Light Company having applied to the Railroad Commission for permission to issue \$402,000 of bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required for the purpose specified herein and that the expenditures for such purpose are not, in whole or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that California Telephone and Light Company be and it is hereby authorized to issue and sell at not less than face value plus accrued interest, \$402,000 of its first mortgage 6 per cent bonds and to use the proceeds for the purpose of paying in part its outstanding indebtedness due Pacific Gas and Electric Company.

It is hereby further ordered, that applicant shall keep such record of the issue of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted shall become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$402.

Dated at San Francisco, California, this nineteenth day of August, 1927.

DECISION No. 18744.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE AND SELL TWO HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS FACE AMOUNT OF ITS FIRST AND REFUNDING MORTGAGE GOLD BONDS OF SERIES "D," AND USE THE PROCEEDS FOR THE PURPOSES IN THIS APPLICATION SET FORTH.

Application No. 13903.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO REIMBURSE ITS TREASURY FOR CAPITAL EXPENDITURES AND TO FINANCE THE CONSTRUCTION OF ADDITIONS, EXTENSIONS, BETTERMENTS AND IMPROVEMENTS IN THE MANNER SET FORTH HEREIN.

Application No. 13940.

Decided August 19, 1927.

SECURITIES—BONDS—To Issue.—Applications granted.

C. P. Cutton and R. W. DuVal, by R. W. DuVal, for Applicant.

By THE COMMISSION.

OPINION.

In Application No. 13940 Pacific Gas and Electric Company asks the Railroad Commission to authorize it to use proceeds to be received from the sale of common and preferred stock heretofore authorized to be issued to reimburse its treasury and/or to pay in part the cost of constructing additions, betterments, extensions and improvements to its plants and facilities and to those of Mt. Shasta Power Corporation.

In Application No. 13903, as amended, Pacific Gas and Electric Company asks the Commission to authorize it to issue and sell at not less than face value plus accrued interest, \$225,000 of its Series "D" first and refunding mortgage 5 per cent bonds, due 1955, for the purpose of paying in part the cost of constructing the additions, betterments, extensions and improvements to its plant and facilities, and to those of Mt. Shasta Power Corporation, which are described in Application No. 13940.

In a former proceeding, Application No. 13291, filed November 3, 1926, the company reported unreimbursed capital expenditures of the two companies at August 31, 1926, at \$6,631,162.88. In these pending proceedings it reports construction expenditures, from August 31, 1926, to May 31, 1927, of \$6,616,956.09, expenditures to purchase 12.40 shares of the capital stock of Sacramento Gas Company, at \$620, and expenditures to retire underlying bonds of Sacramento Gas Company and Oroville Light and Power Company at \$595,400. The four items aggregate \$13,844,138.97. The company also reports that during this period it received from the sale of stock and bonds authorized to be issued by the Commission, the sum of \$13,373,315.40, which was used to meet the expenditures of \$13,844,138.97, leaving a balance said to represent unreimbursed capital expenditures at May 31, 1927, of \$470,823.57.

Applicant now asks permission to use stock and bond proceeds to be received to reimburse its treasury on account of these reported expenditures of \$470,823.57 and/or to finance in part the unexpended

balances on construction work in progress on May 31, 1927, and the estimated cost of new construction during the year. The total expenditures aggregate \$12,367,785.69 and consist of the following:

Unreimbursed capital expenditures at May 31, 1927, of Pacific Gas and Electric Company and Mt. Shasta Power Corporation (Ex. "B," App. 13940)	\$470,823 57
Unexpired balance of capital expenditures authorized at May 31, 1927, by Pacific Gas and Electric Company (Ex. "C" and "C-1," App. 13940)	8,755,958 84
Estimated cost of new construction, Pacific Gas and Electric Company for 1927 (Ex. "D," App. 13940)	3,000,000 00
Unexpended balance of capital expenditures authorized at May 31, 1927, by Mt. Shasta Power Corporation (Ex. "E," App 13940) ..	141,003 28
Total	<u>\$12,367,785 69</u>

To meet these expenditures, in part, the company asks permission to use amounts which it reports it will receive from unpaid stock subscriptions and unsold stock at May 31, 1927, and from the \$225,000 of bonds covered by Application No. 13903. These amounts are as follows:

Receivable from sale of preferred stock—		
Under Decision No. 15782	\$4,618 00	
Under Decision No. 15895	8,843 45	
Under Decision No. 16473	165,850 21	
Under Decision No. 17801-18103	1,142,078 13	
Under Decision No. 17906	366,706 06	
		<u>\$1,688,095 85</u>
Receivable from sale of common stock—		
Under Decision No. 13910	691 88	
Under Decision No. 14767	50 00	
Under Decision No. 14790	550 00	
Under Decision No. 17843	20,119 66	
Under Decision No. 17801-18103	1,142,078 12	
		<u>1,163,489 66</u>
Subtotal		<u>\$2,851,585 51</u>
Estimated to be received from stock unsold—		
At May 31, 1927		
Preferred stock—Decisions Nos. 17801, 18103 ..	\$27,700 00	
Common stock—Decisions Nos. 17801, 18103 ..	27,700 00	
Common stock—Decision No. 17843	68,815 00	
To be received from bonds applied for in Application No. 13903	225,000 00	
		<u>349,215 00</u>
Total proceeds		<u>\$3,200,800 51</u>

Deducting the \$3,200,800.51 from the reported actual or estimated expenditures of \$12,367,785.69 leaves a balance of \$9,166,985.18 to be subsequently financed, if the Commission in later proceedings finds such expenditures reasonable and necessary. The authority granted in these two proceedings is an approval of the expenditures of \$12,367,785.69 only to the extent of \$3,200,800.51.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue bonds and to use proceeds from the sale of stock heretofore authorized to be issued, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the applications should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the bonds and the use of the stock proceeds is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Pacific Gas and Electric Company be and it is hereby authorized to issue and sell, on or before December 31, 1927, at not less than face value plus accrued interest, \$225,000 of its Series "D" first and refunding mortgage 5 per cent bonds due 1955.

It is hereby further ordered, that Pacific Gas and Electric Company be and it hereby is authorized to use the proceeds to be received from the sale of the bonds herein authorized, other than accrued interest, and the proceeds received or to be received from the sale of the common and preferred stock authorized to be issued by the Commission in the decisions referred to in the foregoing opinion, for the purpose of reimbursing its treasury on account of capital expenditures of \$470,823.57 made prior to May 31, 1927, and/or to finance, in part, such cost of the additions, extensions, betterments and improvements to its plants and facilities and to those of Mt. Shasta Power Corporation, shown in Exhibits "B," "C," "D," and "E" filed in Application No. 13940, as is properly chargeable to fixed capital accounts under the uniform systems of accounts prescribed or adopted by this Commission. The accrued interest received from the sale of the bonds may be used for general corporate purposes.

It is hereby further ordered, that the authority herein granted to issue bonds shall become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$225, but that in other respects the authority herein granted shall become effective upon the date hereof.

It is hereby further ordered, that applicant shall keep such record of the issue and sale of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the orders heretofore made in Decisions Nos. 13910, 14767, 14790, 15782, 15895, 16473, 17801, 17843,

17906, and 18103 shall remain in full force and effect, except as modified by this order.

Dated at San Francisco, California, this nineteenth day of August, 1927.

DECISION No. 18746.

IN THE MATTER OF THE APPLICATION OF PORTOLA WATER COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE CAPITAL STOCK AND AUTHORITY TO ISSUE PROMISSORY NOTES.

Application No. 13652.

Decided August 20, 1927.

RATES—WATER UTILITY—To ADJUST—STOCK—NOTES—To ISSUE.—Applicant authorized to place in effect a revised schedule of rates, upon making certain improvements in its service. Applicant also authorized to issue \$8,760, of common stock, and \$5,000 of promissory notes. Application dismissed for the issuance of \$2,000 of stock.

H. B. Wolfe, for Applicant.

WHITSELL, Commissioner.

OPINION.

Portola Water Company, a corporation, engaged in the public utility business of supplying water for domestic and commercial purposes to consumers in and in the vicinity of the town of Portola, Plumas County, has applied to the Railroad Commission for authority to issue stock and promissory notes, for the fixing of a minimum monthly charge for metered service, and also for a general readjustment of the present flat rates now in effect.

The application alleges that the system is now being placed upon a measured basis and that there is no minimum monthly charge for such measured service, and that the present rates do not yield a fair return to applicant upon its capital investment; wherefore, a general readjustment of the rates is requested, including a monthly minimum charge for metered service.

A public hearing was held in this matter at Portola, after due notice thereof had been given so that all interested parties might appear and be heard.

The Portola Water Company was organized in 1910 as a copartnership by E. I. Lane, J. H. Golden, N. F. Golden and E. V. Darby, and was incorporated in March, 1918. The water supply at present is obtained from springs known as the Golden, Turner and Malloy Springs, located in the mountains south of Portola, and stored in two reservoirs of a total capacity of 1,225,000 gallons, from which it is distributed by gravity. On March 15, 1927, this utility was serving approximately 220 consumers, 80 of whom have been metered recently.

The rates at present in effect were established by the Commission in Decision No. 3722, dated September 28, 1916, and are as follows:

Monthly Water Rates to Be Charged by Portola Water Company.

1. Residences:	
4 rooms or less.....	\$1 00
Each additional room.....	10
Kitchen sink and washstand or either.....	25
Each toilet.....	25
Each bathtub.....	25
2. Hotels, lodging houses, boarding houses, etc.:	
Minimum charge, each.....	2 00
Bedrooms for rental, each.....	20
Public dining rooms, each.....	1 50
3. Restaurants, lunch stands, etc.:	
Per unit table or counter seating capacity.....	15
4. Barber shops:	
Each chair in use.....	1 00
5. Commercial use:	
Stores, lodge rooms and halls, pool and billiard rooms, physicians' and dentists' offices, each.....	1 00
Professional offices, banks and real estate offices.....	75
Soda-water fountains with other businesses.....	75
Bakeries and butcher shops.....	2 00
Laundries.....	3 00
6. Auxiliary uses—additional rates:	
Lawn, garden or shrubbery watered or street sprinkled per 100 square feet.....	02
Horses (average number cared for in month), each.....	25
Public bathtub, each.....	75
Public toilet, each.....	75
Automobiles, each.....	25
7. Public Stable and Garage:	
Each minimum.....	2 00
Per animal or machine cared for on average.....	25
8. Western Pacific Railway:	
Hospital.....	7 50
Station and grounds.....	25 00
Other use, measured or estimated..... (per 100 cu. ft.)	20
9. Public use:	
School when in session.....	2 50
Fire hydrants, each.....	1 00
Other use, measured or estimated..... (per 100 cu. ft.)	20
10. Metered rate:	
All at 20 cents per 100 cubic feet.	
11. Water carried to premises at one-half rates set out above.	

No appraisalment of the physical properties of this utility was presented by applicant; however, a report was submitted by R. E. Savage, one of the Commission's hydraulic engineers, in which he estimated the original cost of the used and useful physical properties to be \$28,775, as of May 15, 1927, and the depreciation annuity \$645, computed by the sinking fund method at 5 per cent. The above total of

\$28,775 included \$2,645 spent upon the development of water from a well in the Feather river and still under construction. From the evidence, it appears that the completion and equipment of this well, together with the installation of additional facilities for its operation and for the storage and distribution of the waters therefrom will require the expenditure of approximately \$5,000. Other construction work in progress, not included in the above estimate, amounts to \$1,153 for additions to the transmission mains. These two sums should be added to the value of the above appraisalment of the physical properties, making a total of \$34,928. A corresponding increase of \$145 should likewise be made in the depreciation annuity, making a total of \$790.

The evidence shows the three springs supplying this water system have a total average capacity of approximately 80,000 gallons per day. In the establishment of the rates now in effect, the Commission added the sum of \$1,279 to the value of the physical properties to cover intangible values, principally water rights. Since that time, applicant has acquired the rights to Turner Springs, claimed by A. P. Laffranchini and the Beckwith Peak Lumber Company, through contracts entered into in 1924 at a total agreed price of \$3,000 payable in annual amounts, for which \$1,601 has actually been paid to date. Under these circumstances, it appears that applicant is entitled to have included in the rate base for the purpose of this proceeding the sum of \$4,000, representing as nearly as can be determined from the evidence the cost of acquisition of the rights to use the waters from the springs now used as the main source of supply.

Applicant contended that the present maintenance and operating cost would require the expenditure of \$4,975 per year to have sufficient force on hand to properly look after the system, and further claimed that, when the new Feather River well and pumping plant is placed in operation, an additional employee will be required and the costs of pumping will also have to be provided for.

The annual operating expenses for the immediate future were estimated by the Commission's engineer to be \$3,350. The evidence shows that, although this estimate did not provide sufficiently for the future taxes, the allowances for other elements of operating costs were very liberal and that the total allowance will provide amply for all reasonable future operating costs, including the reading and repairing of meters and costs of pumping, which, it should be understood, will not be continuous but will be required only at such periods as necessary to supplement the gravity supply of water from the springs.

The revenues for 1926 amounted to \$6,185 which showed a net return of slightly in excess of 9 per cent on the investment at that time, including water rights, and based upon the operating costs as set out in the annual reports. Using the figures established above, the existing

rates for the immediate future should return to applicant a net revenue of about 6.8 per cent upon a total rate base of \$38,928.

It is apparent that the present rates of this utility are producing not far from a fair return upon the investment under existing conditions. However, the utility has been ordered heretofore by the Commission to meter the system and install certain improvements, including the development of a new water supply. Considerable money must be spent by this utility to comply with these orders. Slight inequalities exist in the present flat rate schedule which do not fairly cover the present changed conditions. There is no monthly minimum charge in the present schedule of rates for metered service and one will be provided for herein. It should be pointed out at this time that the many complaints made against this utility for poor management and inadequate service and lack of water during the summer led this Commission, in its Decision No. 17047, dated July 2, 1926, to order the installation of the improvements referred to above, which, however, have not as yet been completed and placed in satisfactory operation. Therefore, it is apparent that the schedule of rates established in the following order properly should not be placed in effect unless and until the above mentioned improvements have been fully installed and have been accepted. When this has been done, the schedule of rates will be allowed to become effective upon supplemental order of this Commission.

Coming now to the request to issue securities, it appears that the corporation desires to issue \$10,760 of its capital stock to finance in part construction expenditures made during 1926 and to issue a \$5,000 note to finance the cost of additional construction.

The company reports that during the year 1926, in order to augment its water supply and to better its service, it expended \$12,984.13 for the following purposes:

Meters	\$686 34
Malloy-Turner reservoir	1,499 97
Pipe line from Turner Spring to reservoir	1,263 58
Cost of laying pipe line—Turner Spring to town	2,686 30
Pipe and materials	2,769 62
Freight and drayage	296 13
Surveying	48 00
New well	2,299 44
Cost of fencing reservoir and laying pipe to new school house	183 25
Land for reservoir site	1,251 50
Total	\$12,984 13

The testimony herein indicates that no liabilities were incurred in making these expenditures, the cost being made out of surplus earnings and other cash on hand. In now asking permission to issue \$10,760 of stock the company is seeking to reimburse itself in part for such expenditures and through such issue permanently finance them. After

such reimbursement it proposes to distribute the stock, to its present stockholders, as a stock dividend.

An order authorizing the issue of stock for the purpose of reimbursing the treasury requires, among other things, a determination of the extent of the surplus earnings invested in the properties and business of the company. In the present case the company reports that on December 31, 1925, it had an accumulated surplus of \$7,971.92 and, during 1926, net profits of \$3,173.35, the two amounts totaling \$11,145.27. From this figure, however, the company deducts \$1,139.20 on account of cash dividends paid and \$12,984.13 on account of appropriations from surplus in making the additions and betterments heretofore referred to. These deductions result in a deficit at the close of the year of \$2,978.06 which applicant has eliminated from its records, according to the testimony herein, by a charge to the reserve for accrued depreciation, reducing the credit balance in that account from \$3,068.06 to \$90.

I do not look with favor on applicant's action in thus charging its deficit to its reserve and reducing that account. A reversing entry should be made charging the surplus account with the \$2,978.06 and restoring the reserve to the former credit balance of \$3,068.06, as of December 31, 1926. In addition the company should credit back to its corporate surplus account the \$12,984.13 reported expended in 1926. With these adjustments the balance sheet of the company, as of December 31, 1926, would read as follows:

<i>Assets.</i>	
Fixed capital.....	\$27,224 13
Cash	90 00
Total assets.....	\$27,314 13
<i>Liabilities.</i>	
Capital stock.....	\$14,240 00
Reserve for depreciation.....	3,068 06
Corporate surplus.....	10,006 07
Total liabilities.....	\$27,314 13

The credit balance in the surplus account as shown above, which appears to have been invested in the properties of the company, is somewhat less than the amount of stock which the company proposes to issue to reimburse its treasury and to pay a stock dividend. Further, I do not believe that the company should, at this time at least, distribute all of its surplus through the payment of either cash or stock dividends. Accordingly I recommend that the company be permitted at this time to issue not exceeding \$8,760 of stock in reimbursement of its treasury.

The issue of the \$5,000 note is for the purpose of financing construction work subsequent to December 31, 1926. The company reports, and the testimony herein indicates, that it will need approximately that amount to install additional meters, purchase a pump, install a chlorination plant and install additional pipe lines.

The proposed note, or notes, will be unsecured and will run for a period of one year with interest at not exceeding 7 per cent per annum. It is intended, and permission is asked, to renew the notes, or portion thereof, upon maturity for a further period of one year. While a public utility can issue one-year notes without obtaining permission from this Commission, it can not renew them unless authorized to do so. In the present case the company, in now asking permission to renew its one-year notes upon maturity, is, in effect, asking permission to incur a two-year indebtedness, thus bringing the matter within the Commission's jurisdiction.

At the hearing applicant introduced as exhibits two agreements for the sale and purchase of land and rights of way used in its operations, Exhibit No. 1 being a copy of an agreement between A. P. Laffranchini and Lizzie Laffranchini on the one hand and Portola Water Company on the other, and Exhibit No. 2 being a copy of an agreement between F. P. Myers and J. M. Turner and Ethel P. Turner and Eleanor Myers on the one hand and Portola Water Company on the other. The first agreement provides for a total price of \$1,000, payable in the sum of \$150 sixty days after date and in a like amount each year thereafter until paid. The second agreement provides for a total price of \$2,000, payable in six annual installments. I believe that these instruments are evidences of indebtedness, payable more than one year after date of execution, as defined in section 52 of the Public Utilities Act and as such should be approved by this Commission.

I herewith submit the following form of Order.

ORDER.

Application having been made to the Railroad Commission, as entitled above, a public hearing having been held, and the Commission being fully informed in the matter, and being of the opinion that the money, property or labor to be procured or paid for through the issue of the stock and notes herein authorized is reasonably required for the purposes specified herein and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income:

It is hereby found as a fact that the rates now charged by Portola Water Company, a corporation, for water delivered to consumers are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable

rates to be charged for such service. And, basing its order upon the foregoing finding of fact and upon the statement of fact contained in the preceding opinion;

It is hereby ordered, that Portola Water Company be and it is hereby authorized and directed to file with this Commission, within thirty days from the date of this order, the following schedule of rates to become effective only when the Feather River well is completed and equipped with adequate pumping equipment and storage facilities and connected to the distribution system in a manner satisfactory to this Commission and confirmed by supplemental order herein.

Monthly Flat Rates.

1. Residences:	
4 rooms or less-----	\$1 00
Each additional room-----	10
Kitchen sink-----	25
Each toilet-----	25
Each bathtub-----	25
2. Hotels, lodging houses, boarding houses, etc.:	
Minimum charge, each-----	2 00
Bedrooms for rental, each-----	20
Public dining rooms, each-----	1 50
3. Restaurants, lunch stands, etc.:	
Minimum charge-----	1 75
Per unit table or counter seating capacity-----	15
4. Barber shops:	
Each chair in use-----	1 00
5. Commercial Use:	
Stores and banks-----	1 50
Lodge rooms and halls, pool and billiard rooms, physicians' and dentists' offices, each-----	1 00
Real state and other offices-----	75
Soda-water fountains with other businesses-----	1 00
Bakeries-----	2 00
Butcher shops-----	1 75
6. Auxiliary uses—additional rates:	
Lawn, garden or shrubbery watered or street sprinkled, per 1000 square feet-----	02
Horses (average number cared for in month), each-----	25
Public bathtub, each-----	75
Public toilet, each-----	75
7. Western Pacific Railway:	
Hospital-----	7 50
Station and grounds-----	25 00
8. Public use:	
Fire hydrants, each-----	1 00
9. All other uses at meter rates:	

Meter Rates.

Minimum monthly charges:

$\frac{1}{8}$ " meter-----	\$1 75
$\frac{3}{4}$ " meter-----	2 00
1" meter-----	2 50
1 $\frac{1}{2}$ " meter-----	3 25

2" meter	-----	\$5 00
3" meter	-----	10 00
4" meter	-----	20 00

Monthly quantity charges:

First 800 cubic feet or less, per 100 cubic feet	-----	1 75
From 800 to 2,000 cubic feet, per 100 cubic feet	-----	20
From 2,000 to 4,000 cubic feet, per 100 cubic feet	-----	15
From 4,000 to 10,000 cubic feet, per 100 cubic feet	-----	10
From 10,000 to 25,000 cubic feet, per 100 cubic feet	-----	08
Over 25,000 cubic feet, per 100 cubic feet	-----	06

It is hereby further ordered, that Portola Water Company, a corporation, file with the Railroad Commission, within thirty days from the date of this order, revised rules and regulations governing service to its consumers, said rules and regulations to become effective when accepted for filing by this Commission.

It is hereby further ordered, that Portola Water Company be and it hereby is authorized to issue not exceeding \$8,760 of its common capital stock for the purpose of reimbursing its treasury on account of earnings expended for additions and betterments during 1926.

It is hereby further ordered, that Portola Water Company be and it hereby is authorized to enter into and execute the two agreements referred to in the foregoing opinion providing for the payment of the amounts and in the manner referred to therein, and to issue its unsecured promissory note, or notes, in the principal amount of \$5,000, payable one year after date of issue with interest at not exceeding 7 per cent per annum, and to renew such notes, or any portion thereof, upon maturity, for a further period of one year, and to use the proceeds to finance the cost of additions and betterments subsequent to December 31, 1926, referred to in this application.

It is hereby further ordered, that Portola Water Company shall keep such record of the issue of the stock and notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted to enter into contracts and to issue notes shall become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and that for all other purposes the effective date of this order shall be twenty days from and after the date hereof. Under the authority herein granted no stocks or notes may be issued after September 30, 1928.

It is hereby further ordered, that the application in so far as it involves the issue of \$2,000 of stock be and it hereby is dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twentieth day of August, 1927.

DECISION No. 18747.

IN THE MATTER OF THE APPLICATION OF THE CITY OF PASADENA FOR THE ESTABLISHMENT OF A GRADE CROSSING OVER THE TRACKS OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Application No. 13238.

Decided August 25, 1927.

GRADE CROSSING—STEAM RAILROAD—PUBLIC HAZARD.—Holding that the proposed crossing of Pico street over the tracks of The Atchison, Topeka and Santa Fe Railway Company, with impaired view, is not required by public necessity, the Commission denies the application.

Roscoe R. Hess and *F. G. Stoehr*, for Applicant.

M. W. Reed, for The Atchison, Topeka and Santa Fe Railway Company, Protestant.

John R. Berryman, Jr., for Los Angeles County Grade Crossing Committee, Protestant.

BY THE COMMISSION.

OPINION.

In the above entitled application, the city of Pasadena seeks an order fixing the terms for the establishment of a grade crossing at Pico street and the railway tracks of The Atchison, Topeka and Santa Fe Railway Company, in the said city of Pasadena.

Although the application does not request authority to construct a crossing, testimony regarding the public necessity for said crossing was admitted at the public hearing held before Examiner Williams at Pasadena on January 28, 1927, and this Commission's order will be concerned with the public convenience and necessity involved in this application.

The crossing applied for is located in the industrial area of Pasadena, south of the Santa Fe station.

The railroad involved is the main line of The Atchison, Topeka and Santa Fe Railway Company to the east, there being, at the crossing proposed, a single main track with two spur tracks, one on each side of the main track. The line is laid out in a northerly and southerly direction on a grade of 2.14 per cent ascending northerly. There are between fourteen and twenty passenger trains and an equal number of freights operated at speeds of from 20 to 25 miles per hour over the crossing daily. In addition, there are seven or eight switching movements per day. Evidence introduced by the Los Angeles County

Grade Crossing Committee shows that during a one-hour check, eight switching operations occurred in such a manner as to block Pico street.

In the vicinity of the proposed crossing the streets are laid out north and south and east and west. Pico street, lying east and west, is but three blocks long, is 60 feet wide between property lines east of the railroad and 50 feet wide west thereof. Raymond avenue and Broadway are two wide well paved highways laid out to the west and east, respectively, of the Santa Fe, being parallel and distant approximately 200 feet from it.

The next crossing to the north of Pico street is California street, an important east and west traffic artery. The distance between California street and Pico street is 350 feet. Ritzman street is the next crossing to the south, distant 650 feet, and is a moderately traveled east and west street.

The views at the proposed crossing are badly obstructed. At three of the corners buildings have been erected close to the property lines of both the railroad right of way, which is only 30 feet wide at this point, and the narrow street. At the fourth corner is a storage yard which will possibly contain such material from time to time as will obstruct the view of trains.

Applicant contends that convenient access to other portions of the city does not exist for property fronting on Pico street between Raymond avenue and Broadway.

Witnesses for applicant testified that the crossing was necessary in order to facilitate traffic flow and to serve three industries located on Pico street between Raymond avenue and Broadway. They admitted on cross-examination that Pico street was not a through street nor was it contemplated as such and that the industries already had access to their property. It was urged, however, that the crossing would be a convenience in that trucks from the industries east of the tracks, for example, could be routed over the proposed crossing on Pico to Raymond, thence to the desired destination, rather than by traveling east to Broadway and then west on California street or Ritzman street.

Protestant, The Atchison, Topeka and Santa Fe Railway Company, introduced, as exhibits, a map and four photographs showing conditions surrounding the crossing at present. Witness testified that after careful survey the conclusion was reached that the public hazard created by the opening of the crossing more than offset the necessity for the crossing. Witness for the Los Angeles County Grade Crossing Committee presented similar evidence on behalf of that body.

The Commission's engineer recommended that if the crossing be opened it should be protected by a manually controlled wig-wag for the major portion of the day, due to the hazard of the crossing and the peculiar track arrangement.

The evidence in this case has been carefully considered. It is evident that the only benefit to be derived from the opening of this crossing will be confined to the several industries immediately adjacent to the crossing and that this benefit is in the form of convenience and not necessity. This benefit must be weighed against the public hazard created by the opening of a new crossing at grade with impaired views. This hazard exists not alone to the truck driver and autoist using the street, but, as is apparent from our accident records, it exists to the trainmen and public using the railroad. We can only come to the conclusion that permission for the opening of Pico street across the tracks of The Atchison, Topeka and Santa Fe Railway Company should be denied.

ORDER.

The city of Pasadena having applied for an order fixing the terms of establishment of a crossing at grade of Pico street over the tracks of The Atchison, Topeka and Santa Fe Railway Company in said city of Pasadena, a public hearing having been held, the Commission being apprised of the facts and the matter being under submission and ready for decision; therefore

It is hereby ordered, that permission and authority for the construction of Pico street across the tracks of The Atchison, Topeka and Santa Fe Railway Company be and they are hereby denied.

The effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-fifth day of August, 1927.

DECISION No. 18749.

IN THE MATTER OF THE APPLICATION OF MOTOR TRANSIT COMPANY FOR AN ORDER MODIFYING CERTAIN CONDITIONS CONTAINED IN C. R. C. DECISION No. 13454, IN SO FAR AS THE SAME RELATES TO THE CARRIAGE OF EXPRESS OVER APPLICANT'S AUTOMOBILE STAGE LINES, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY AUTHORIZING APPLICANT TO TRANSPORT EXPRESS MATTER OVER CERTAIN OF ITS AUTOMOBILE STAGE ROUTES KNOWN AS THE DILLINGHAM LEASED LINES.

Application No. 11502.

Decided August 25, 1927.

CERTIFICATE—AUTO STAGES—EXPRESS—BAGGAGE.—Certificate granted applicant to transport baggage of passengers, not exceeding 150 pounds per parcel, free of charge, where the fare paid is \$3 or more, and also to transport, on passenger cars only, express parcels or packages, not exceeding 100 pounds in weight per parcel or package, between all points on applicant's system.

H. W. Kidd, for Applicant.

A. L. Hammell, Mark Thompson and Edward Stern, for American Railway Express Company, Protestant.

E. E. Bennett, for Los Angeles and Salt Lake Railroad Company, Protestant.
H. J. Bischoff, for Coast Truck Line, and Los Angeles and Newport Express, Protestants.
C. W. Cornell and *F. A. Betts*, for Pacific Electric Railway Company, Protestant.
C. W. Cornell, *F. A. Betts* and *L. C. Zimmerman*, for Southern Pacific Company, Protestant.
L. W. Butterfield and *W. N. Irwin*, for The Atchison, Topeka and Santa Fe Railway Company, Protestant.
Phil Jacobson, for T. R. Rex, proprietor Rex Transfer, Protestant.
R. L. McNitt, for Pasadena-Pomona Stage Line, Protestant.
Everett McCab, for United Parcel Service, Protestant.
Warren B. Libby and *Harry N. Blair*, for Keystone Express, Rex Transfer Company, Triangle-Orange County Express, Boulevard Express, and Service Motor Express, Protestants.
Richard T. Eddy, for Richardson Transportation Company, Protestant.

BY THE COMMISSION.

OPINION.

Motor Transit Company, a corporation, by its amended application, has petitioned the Railroad Commission for an order:

(1) Authorizing the removal of the restrictions now contained in this Commission's Decision No. 13454 on Application No. 8454, as decided April 22, 1924, whereby Motor Transit Company was restricted in the carriage of express matter to a weight limit of forty (40) pounds on each package, and to permit the carriage of baggage and express parcels of a weight up to and including one hundred and fifty (150) pounds per package.

(2) Granting a certificate of public convenience and necessity for the transportation of express over the so-called Dillingham leased lines, said lines now being operated by applicant Motor Transit Company under the authority of this Commission's Decision No. 13373 on Application No. 9917.

(3) Granting authority for the carriage of express and baggage over the lines heretofore acquired by applicant from A. B. Watson, operating under the fictitious names of Crown Stages and Crown Stage Lines, by authority as contained in this Commission's Decision No. 16725 on Application No. 12812, as decided May 13, 1926, said lines being described as follows:

I. Between Santa Ana and Laguna via Tustin and Irvine, and serving all intermediate points.

II. Between Santa Ana and Balboa via Glorietta, Costa Mesa and Newport Beach, and serving all intermediate points.

III. Between Long Beach and Pomona via Seal Beach, Los Alamitos, Cypress, Anaheim, Fullerton and Brea, and serving all intermediate points.

IV. Between Riverside and Long Beach via Seal Beach, Huntington Beach, Greenville, Talbert, Santa Ana, Orange, Olive, Corona and Arlington; and also an additional or alternative route in connection with such operations via Bolsa, Garden Grove and Westminster, and all points intermediate to the said termini (except that between Olive and Corona and between Huntington Beach and Seal Beach there is no operative right for the conduct of a local business).

(4) Granting authority for the carriage of express and baggage over the lines heretofore acquired by applicant from Pickwick Stages

System, by authority as contained in this Commission's Decision No. 16725 on Application No. 12812, as decided May 13, 1926, said lines being described as follows:

Between Los Angeles and Santa Ana and all points intermediate thereto, via Bandini, Santa Fe Springs, Norwalk, Buena Park, Fullerton, Anaheim and Orange, being the same operative rights heretofore leased and purchased by Pickwick Stages System from A. B. Watson, said transaction having been approved in C. R. C. Decision No. 13177 made on Application No. 8431; all of the said right, title and interest to said Pickwick Stages System in and to said operating rights and under said lease and agreement for sale of same, having been by said Pickwick Stages System assigned to Motor Transit Company.

(5) Granting authority for the carriage of express and baggage over the line heretofore acquired by applicant from City Transit, Inc., a corporation, by authority contained in this Commission's Decision No. 16257 on Application No. 12607, as decided March 19, 1926, said line being described as follows:

Between Pomona and San Dimas and intermediate points of La Verne and Bonita.

(6) Granting authority for the carriage of express and baggage over the lines heretofore acquired by applicant from Verdugo Hills Transportation Company, a corporation, by authority contained in this Commission's Decision No. 16888 on Application No. 12683, as decided June 11, 1926, and Decision No. 17160 on said Application No. 12683, as decided July 26, 1926, said lines being described as follows:

Between Los Angeles and Sunland via Glendale, Montrose, La Crescenta, Tujunga and other intermediate points.

(7) Granting authority for the carriage of express and baggage over the lines heretofore acquired by applicant from R. B. Cregar, by authority as contained in this Commission's Decision No. 13371 on Application No. 9780, as decided April 5, 1924, and Decision No. 17377 on said Application No. 9780, as decided September 21, 1926, said lines being described as follows:

Between San Jacinto and Idyllwild via Oak Cliff and Keen Camp.

Between Riverside and San Jacinto via Eden Hot Springs and Gilman Hot Springs as intermediate points.

Between Keen Camp or Idyllwild on the one hand and Banning, Beaumont or Riverside on the other hand, providing that no local service be operated between Banning, Beaumont and Riverside.

(8) Granting authority for the carriage of express and baggage over the line heretofore acquired by applicant from G. A. Schwen, by authority as contained in this Commission's Decision No. 17546 on Application No. 13223, as decided October 29, 1926, said line being described as follows:

Between Redlands and Yucaipa and the intermediate points of Yucaipa Junction and Sand Canyon.

(9) Granting authority for the carriage of express and baggage over the line heretofore acquired by applicant from Carl D. Hodge, by authority as contained in this Commission's Decision No. 17120 on Application No. 13005, as decided July 27, 1926, said line being described as follows:

Between San Bernardino and Oro Grande, serving the intermediate points of Hesperia Road, Camp Cajon, Cozy Dell, Mt. View Camp, Devore, Verdemon and Victorville.

Public hearings on this application were conducted by Examiner Handford at Los Angeles, Pomona and San Bernardino, the matter was duly submitted, and is now ready for decision.

Applicant proposes to establish a uniform weight limit for the transportation of express matter on the basis of 150 pounds per package and to establish such service on all lines. The rates proposed to be assessed for the transportation of express are on three bases as follows:

(1) Per hundred pounds on packages of normal weight and bulk and value. Where packages are very large, but of little weight or value, the rate proposed will be applied to the cubic feet of space occupied by the package in units of 10 cubic feet. When the package is small in size and of little weight, but of high value, the rate will be applied in units of \$100 instead of in units of 100 pounds or 10 cubic feet.

(2) Rates quoted are in cents per 100 pounds, if the weight is greater than the bulk or the value; or per 10 cubic feet if the package be large, but of little value or weight; or per \$100 if the value be great, but the weight or volume be small; the rate in each case to be applied to the total value, weight or cubic feet of the contents, above and below the unit given, but in no case less than the minimum charge as proposed.

(3) The unit of weight, cubic feet of space or value which yields the highest charge is the rate to be used in computing charges.

The offer of service as proposed by applicant is as follows:

To carry express on every passenger schedule to the full express carrying capacity of each passenger vehicle, that the express will be handled on the first passenger car departing after the receipt of the express shipment and in the order of its receipt, subject, however, to the suitability, size and volume of each shipment offered for transportation on passenger vehicles; that if at any time during the day an accumulation of 500 pounds of express matter occurs which can not be handled on the passenger cars, then such accumulation will be handled by a truck or service car which will move out of the terminal as soon as such accumulation occurs; that if any accumulation of express exists in the terminal at the end of a business day such accumulation will be moved to its destination by passenger cars or service cars and

be delivered some time during the same evening, or night, at destination, depending on the distance from point of origin to point of destination, excepting, however, points which may be located on applicant's lines in the San Jacinto and San Bernardino mountains.

Applicant proposes to transport trunks and other heavy baggage, weighing not in excess of 150 pounds per unit, and to carry same as free baggage in connection with all tickets purchased where the one-way fare is \$3 or more, and to transport trunks and other heavy baggage in connection with all tickets purchased where the one-way fare is less than \$3, charging, however, in the latter instance its regular express rates.

Applicant relies as justification for the granting of the application upon the following alleged facts:

I. That the 40-pound weight limitation as imposed on applicant's operations in the carriage of express and baggage by the Commission's Decision No. 13454 on Application No. 8454, as decided April 22, 1924, is unreasonable and same works a hardship on applicant in the conduct of its express business; and that the shipping public is also inconvenienced by the fact that applicant is frequently obliged to decline to receive shipments offered for transportation when such shipments are of a weight in excess of 40 pounds per package.

II. That applicant in the conduct of its business is obliged to maintain service cars for the purpose of transporting materials, repair parts and supplies between its various stations and over its lines; that such service cars make frequent trips on which any surplus express and baggage could be transported and for which express and baggage there was not available space on the regularly scheduled passenger vehicles; and that shipments of a weight up to and including 150 pounds per unit could also be carried on such service cars.

III. That applicant has had frequent complaints from patrons of its express service as to its refusal to transport express shipments weighing in excess of 40 pounds per unit; and that the existence of such restriction has created unnecessary competition with applicant's service and has caused other operators to seek express rights for the carriage of express in units exceeding 40 pounds in weight.

IV. That as to many of the lines and routes operated by the applicant it is furnishing by its express service the only common carrier service now existing, and that as to other sections of the territory served in part by rail carriers the express service now furnished by such carriers is so much slower than that now furnished and proposed to be furnished by applicant that the rail express service is used by the shipping public only for the movement of goods not requiring the rapid service afforded by applicant's express service; that the respective services are so radically different that they do not compete with

each other; that as to other motor carriers operating over certain portions of applicant's lines and transporting freight, so far as known to applicant, said carriers do not furnish or purport to furnish an express service affording the same degree of expediency as that of applicant, but handle principally heavy and slow moving freight; and that applicant believes and therefore alleges that such motor freight carriers will not be adversely affected by the granting of the application.

F. D. Howell, vice president and general manager of applicant, testified as to the character of express and baggage service proposed; regarding the necessity for express service over the Dillingham lines which had been acquired by applicant and on which no express was transported; and as to the investigation and desirability of establishing a service for shipments of a maximum weight of 150 pounds in lieu of the 40-pound maximum now authorized.

E. C. Burge, employed by the Echophone Manufacturing Company at Long Beach, testified his company had need for the proposed service of applicant between Long Beach and Pasadena and intermediate points over the route of the Dillingham Line, and that if the service were to be established it would be used by his company in the shipment of its products. The heaviest shipments would not exceed 50 pounds per package.

J. D. Schilling, operating a general garage business at Hynes, testified as to the need of applicant's service for the handling of shipments from Long Beach, there being no authorized stage or truck service available and it being necessary to go to such points for material and parts, or to employ someone to make a special trip. Witness would use and had need for the proposed service, the heaviest shipments being gear cases or rear ends for automobiles, estimated to weigh between 75 and 150 pounds. Batteries prepared for shipment weigh from 25 to 45 pounds and wheels from 15 to 80 pounds.

H. W. Boulton, employed by the H. C. Smith Motor Parts Company at Whittier, testified as to the need of service, as proposed by applicant, by his company to Downey, Bellflower, Hynes, Brea and Long Beach, as well as for service to and from Los Angeles, the heaviest shipments anticipated being cylinder blocks for regrinding, weighing from 100 to 125 pounds.

L. W. Crouch, operating a cleaning and dyeing establishment in Long Beach, testified that he desired the service of applicant for the carriage of express between Long Beach and Pasadena, Whittier, Fullerton, Santa Ana, Orange, Anaheim and Balboa Beach. Witness is now operating his own automobile to serve points on the Dillingham line and retain his patronage. His shipments average from 3 to 7 pounds in weight, the maximum weight being 30 pounds.

J. W. Julian, operating a general automobile repair shop at El Monte, testified regarding his need for a service as proposed by the applicant between El Monte and Pasadena and Los Angeles; that his heaviest shipments would range from 64 to 150 pounds in weight; that the present service with the restricted weight limit of 40 pounds was satisfactory; and that the removal of the restriction would enable him to discontinue his present practice of using his own vehicle for the transportation of large repair parts. •

Paul Giddings, a distributor of automobile piston rings, and residing in Pasadena, testified as to his need for the proposed service of applicant in the distribution of his merchandise to points on the Dillingham line; that his shipments average 15 pounds in weight; and that the service would be used if authorized.

J. C. Ells, in the blue printing business at Alhambra, testified as to his need for service of the applicant over the Dillingham line to Whittier, Long Beach and intermediate points; that service via parcel post and express had not been entirely satisfactory or responsive to his needs; and that the frequency of the proposed service for small shipments would enable him to secure new business in competition with concerns located in Los Angeles.

T. L. Estep, handling automobile replacement parts at Whittier, uses the present service of applicant between Los Angeles and Whittier and desires the removal of the weight restrictions.

T. H. Little, employed by Wm. H. Hoegee of Los Angeles, dealers in sporting goods, testified that his concern used the present service of applicant and desired the removal of the weight restriction to eliminate the necessity for breaking down shipments to the weight limit of 40 pounds per package, some shipments not being convenient to repack, for instance, shot gun shells, a standard package weighing 65 pounds. Canvas cots in bundles are also shipped by the Hoegee Company, such shipments weighing approximately 115 pounds. Similar testimony was given by O. Neimann, shipping clerk for Tufts-Lyon Arms Company, Los Angeles, who would use the service for shipments weighing in excess of 40 pounds per package if the weight restriction were to be removed.

A. J. Hall, employed by Henry B. Day Company, wholesale dealers in automobile and upholstery trimmings at Los Angeles, testified that 50 per cent of his shipments from Los Angeles now moved via Motor Transit Company, and that the volume of business would be doubled if the present weight restriction were to be removed.

Harry L. Wilson, shipping clerk for Klein-Norton Company of Los Angeles, stated that his company now used applicant's service and desired the removal of the present weight restriction to reduce the

cost of packing and preparing shipments for transportation, and to facilitate the movement of packages weighing in excess of 40 pounds.

W. J. Watson, service manager for Buyer's Service Corporation, a purchasing agency in Los Angeles, serving approximately 700 garages and automobile dealers in southern California, testified that the proposed service of applicant would be used if authorized, the average weight of shipments being 75 pounds.

C. W. Harding, shipping clerk for John W. MacMillan of Los Angeles, dealer in electrical supplies, testified the proposed service was desired to obviate the necessity of breaking down shipments to a maximum weight of 40 pounds per package, and that 70 per cent of the business forwarded by his concern, for which the facilities of applicant were used was from Los Angeles to territory intermediate between Anaheim and San Bernardino.

L. H. Jessup, shipping clerk for Blake, Moffatt & Towne, dealers in wholesale paper and cordage at Los Angeles, testified that the shipments forwarded by his company ranged from 20 to 150 pounds, it being his estimate that 20 per cent of the shipments weighed less than 40 pounds, 50 per cent from 40 to 75 pounds, 20 per cent from 75 to 100 pounds and the remaining 10 per cent from 100 to 150 pounds.

H. M. Miller, with the Miller Company, Anaheim, dealers in motor parts and accessories, testified his company had need for the proposed service for packages weighing from 40 to 150 pounds, and that the proposed service would be used if authorized, witness now sending his own car from Anaheim to Los Angeles to transport such shipments.

A. V. Gomez, employed as shipping clerk by Greer-Robbins Co., automobile dealers of Los Angeles, testified regarding need for the proposed service for shipments weighing in excess of 40 pounds per package and that such service would be used if authorized. Similar testimony was given by R. W. Henderson with the Albertson Motor Company, Los Angeles, dealers in Dodge cars and Graham trucks; J. H. Forsythe of Riverside Motor Supply Company, automobile supply parts (maximum shipping weights, 60 to 75 pounds); C. O. Tatro of Mission Garage, Redlands, automobile parts; C. M. Slocum, service manager of The Ahlberg Bearing Company of Los Angeles, whose shipments seldom exceed 90 pounds; and E. A. Washburn, repair foreman of International Harvester Company's Los Angeles Branch, 50 per cent of whose shipments range between 40 and 150 pounds per package.

C. E. Mahoney, operating a dental laboratory at Whittier and doing custom work for dentists located at points along the Dillingham lines, testified regarding the need of the service for small packages, the only

service now available being the parcel post which is too slow for the handling of the business of this witness.

A. B. Lamb, resident manager in Los Angeles for the distribution of the motion picture films of the Metro-Goldwyn-Mayer Co., testified as to the need for applicant's service on films where shipments weighed from 50 to 75 pounds per package. D. F. Mitchell, with the Universal Film Exchange, and president of the Los Angeles Film Board of Trade (an organization of 17 film exchanges), testified as to a similar need, particularly for feature subjects which should move with the entire subject in one container. It was stated that a 5-reel feature would weigh from 45 to 55 pounds, an 8-reel feature from 88 to 90 pounds, and that 60 per cent of the feature shipments would weigh in excess of the present maximum authorized weight of 40 pounds.

W. C. Rockwell, with Brunswig Wholesale Drug Company, Los Angeles, desired the authorization for weight in excess of 40 pounds, for the reason that the restricted weight increased shipping room and packing costs in breaking down shipments to the 40-pound limit. D. S. Curran, with Milton G. Cooper Dry Goods Company of Los Angeles; O. B. Price, traffic manager of Harper & Reynolds Co., hardware, plumbing goods, iron and steel, of Los Angeles; C. H. Priest, vice president, Los Angeles Heavy Hardware Company; J. C. Afflick of Western Electric Company, Los Angeles; M. S. Richardson, traffic manager, The Republic Supply Company, Los Angeles, all gave substantially similar testimony as that of witness Rockwell.

H. V. Ferguson, manager, wholesale department of Crescent Creamery Company of Los Angeles, testified his company would use the service of applicant in the transportation of ice cream if the weight restriction of 40 pounds was removed, such restriction having prohibited the movement.

B. Swanson, a wholesale dealer in cut flowers in Los Angeles, testified that his average shipments weighed approximately 50 pounds and would be forwarded by applicant's proposed service, if same were to be authorized. Henry Siebrecht, a florist of Pasadena, testified that he needed the service over the Dillingham lines to enable him to care for his business and especially as to orders received from Long Beach; that he had lost some Long Beach business and had been obliged to fill other orders through Long Beach florists by reason of existing service, which requires transfer through Los Angeles, not being dependable for the delivery of rush orders. By stipulation, the testimony of four wholesale florists in Los Angeles was to be considered as being similar to that of witness Swanson.

A. H. Vincent, with J. Baumgartner Company, manufacturers of tamales, in Los Angeles, testified as to the need for the shipment of his products in packages over 40 pounds in weight, such products weighing

1.4 pounds per dozen when ready for shipment, and shipments of 50 dozen (or 70 pounds per package) being frequently necessary.

Michael George, manager of transportation for the Los Angeles Evening Herald, testified as to the need of applicant's service for the delivery of his publication from Los Angeles to Hesperia, Victorville, Oro Grande, Sunland, La Crescenta, Pomona, San Dimas, La Verne, Santa Ana, Orange, Norwalk, Fullerton, Anaheim, Brea and Newport Beach; also as to the inconvenience caused by the present necessity for splitting bundles to bring same within the weight limit of 40 pounds as at present restricted.

F. C. Richardson, employed by Moran & McMenamy, speedometer dealers in Pasadena and Los Angeles, testified that shipments from Pasadena to points on the Dillingham lines were now being forwarded by parcel post, but that the proposed service of applicant, if authorized, would be used and would be more expeditious. By stipulation, it was agreed that the testimony of S. W. Ranger of the El Monte Motor Company, Ford dealers at El Monte, would be the same as that of this witness.

Henry Schmitz, publisher of the Buena Park News at Buena Park, testified regarding his need for the proposed service in the transportation of paper print stock and type forms.

J. A. Warlanmont, manager of Mitchell Brothers Garage at Buena Park, who now uses Triangle Express service, desires the service of applicant, as also does J. D. Wright, operating a super-service station at Buena Park, the latter particularly as regards shipments from Santa Ana.

William Rambo, with the Pomona Fixture and Wiring Company, of Pomona, would use the proposed service for packages exceeding 40 pounds in weight, although showing no substantial need; F. W. Botthoff, shipping clerk for the Electrical Corporation, Los Angeles, would use the proposed service if customers requested such routing, as would William Jarratt of the J. M. Feldman Company, dealers in wholesale electric lighting fixtures at Los Angeles; A. F. Anderson, with the Presto Lite Company at Pasadena, dealers in electrical equipment, needs service on the Dillingham lines, although was not advised that service was now available from Pasadena to Pomona and intermediate points via Lord's Pasadena-Pomona Stage Line.

Mrs. Blanche W. Scanlon, in the general dry goods business at Montrose, favors the establishment of an express service between Los Angeles and Montrose, her shipments having a maximum weight of approximately 100 pounds; George Charboneau, in the furniture business at Montrose, expressed a similar need for service; and the testimony of A. W. Enright, of Mellus Brothers, dealers in tents

at Glendale, and E. E. Langhrey, a hardware merchant at La Crescenta, was similar to that of Mrs. Scanlon and George Charboneau.

A. H. Rees, storage manager for Illinois Electric Company, O. H. Levier, a radio dealer of Whittier, and George F. Kohlenberger of the Stickley Radio Electric Company of Fullerton, desire the opportunity to ship electrical goods and radio material in packages exceeding a weight of 40 pounds.

W. A. Tobiss, an automobile tire dealer of Pasadena, needs the proposed express service of applicant on the Dillingham lines to relieve him of the expense of operating his own car to make delivery to his customers. His shipments would average from 60 to 100 pounds in weight; M. C. Richardson, one of the proprietors of the Commercial Garage at El Monte, desires and would use the proposed service if established.

H. W. Brown, stockroom clerk for the Los Angeles Factory Branch of The Mack Truck Company, and E. C. Kreuger, assistant manager, Parts Department of Moreland Sales Company, Los Angeles, testified regarding their need for the service of applicant from Los Angeles to Victorville, Hesperia, Oro Grande, the Orange County territory, La Verne, San Dimas and Pomona.

Walker Jones, proprietor of a newsstand and book store at Victorville, testified as to his need for applicant's proposed service, present facilities not being satisfactory for the receipt of newspapers; G. R. Seals, garage proprietor at Victorville and Mr. Tedford, a garage operator at Oro Grande, also endorse the proposed service and will use same if authorized.

C. J. Miller, operating a service station and garage at Miller's Station, $4\frac{1}{2}$ miles west of Hesperia, testified that the proposed service from San Bernardino would be advantageous, witness at present using a special car at his customers' expense for the securing of rush shipments from that point, the maximum weight of such shipments being from 45 to 50 pounds.

A. T. Knopp, with the Western Auto Supply Company in Los Angeles, endorsed the proposed service of applicant, especially as to the removal of the present weight restrictions and the serving of new territory where express rights are not now a portion of applicant's authorized service.

S. V. Mansur, of the Mansur Motor Company of Orange, and L. R. Starkey, of the Starkey Manufacturing Company of Orange, both desire the present weight restriction of 30 pounds per package on the Crown Lines removed and testified that the applicant's proposed service would be satisfactory and eliminate the necessity of sending their own trucks into Los Angeles to secure emergency or rush shipments exceeding a package weight of 30 pounds.

W. J. Geary, with Hockaday & Harlow, dealers in automobile parts at Santa Ana, testified regarding his desire for a removal of the 30-pound weight restriction on the Crown lines of applicant, claiming that on many rush shipments which would exceed such weight that the existing truck service is not sufficiently expeditious to meet the requirements of his customers and that in some cases where customers could not be persuaded to wait for the truck delivery it has been necessary to refuse the acceptance of orders.

S. C. Sutton, with the Kinslow Machine Works, Santa Ana, desires an increase in the weight limit and if such were permitted he would be fully satisfied with applicant's present and proposed service.

G. H. Stracham, office manager for William W. Ross, Santa Ana dealer in Moreland trucks, Crown and Diana automobiles, and garage service, testified as to the necessity for the raising of the 30-pound limit per package now existing on the Crown Lines of applicant. Witness now uses the Triangle Express for his heavier shipments.

By stipulation it was agreed that the testimony of 149 witnesses representing the automobile supply industry in Los Angeles, Redlands, Montebello, Whittier, Fullerton, Downey, Anaheim, Riverside, La Habra, Brea, San Bernardino, Ontario and Upland would be favorable to the applicant.

Similar stipulations were made regarding the testimony of witnesses representing seven shippers of motion picture films located at Los Angeles; thirty-six shippers of wholesale and retail hardware, metals, wire and wire rope, machinery, farm implements and supplies located at Los Angeles, Redlands, Anaheim, Downey, Whittier, Upland, Redlands, Ontario and Riverside; and twenty shippers of shoes, dry goods, rugs and carpets, men's furnishings, and general merchandise located at Los Angeles, Redlands, Fullerton, Downey, Montebello, San Bernardino and Upland.

E. D. Melcher, traffic manager for the city of Pasadena and the Pasadena Chamber of Commerce, testified that there was a need for the service as proposed by applicant between Pasadena and San Bernardino and intermediate points, and between Pasadena and Long Beach and intermediate points, and between Pasadena and Santa Ana and intermediate points.

Exhibits were filed showing shipments offered for transportation which exceeded the weight limit now authorized. From these exhibits the following data have been abstracted, applicable to the territory now sought to be served by the amended application:

Period	Number packages	Total weight	Average weight per package	Number packages weighing over 100 lbs. each
July 15 to October 8, 1925-----	65	7,708 lbs.	118.6 lbs.	7
October 8 to December 4, 1925- 59		4,197 lbs.	71.14 lbs.	13
December 4, 1925 to				
January 8, 1926-----	22	1,947 lbs.	88.50 lbs.	3

The granting of the application is protested by the American Railway Express Company, Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, Pacific Electric Railway Company, Los Angeles and Salt Lake Railroad Company, and practically all motor carriers of freight and express in the territory proposed to be served by applicant.

Witnesses who were merchants and receivers of freight were called by protesting motor freight and express carriers, there being twenty witnesses from Pomona, two from Colton, four from Redlands and sixteen from San Bernardino. Of these forty-two witnesses nineteen used the service of Keystone Express, twenty used the service of Rex Transfer, one used the Vance Service, one used the Belt Line Express, nine used the Service Motor Express, five used the San Bernardino Transportation Company's service, four used the American Railway Express, and three used the railroad freight service, either wholly or by distributing their business among such carriers. Twenty of the witnesses used the present service of applicant for shipments consisting of parcels not exceeding 40 pounds in weight. In the testimony of the forty-two witnesses, five definitely stated that the applicant's present weight restriction of forty pounds per package was satisfactory and six that there was no need for any additional service as herein proposed.

F. H. Wallihan, secretary of the Business Men's Association of Ontario, testified that his organization comprised 135 members; that in accordance with instructions from his board of directors he circulated a questionnaire to certain members to ascertain their sentiment regarding the pending application; and that thirty questionnaires were sent out to which twenty-one responses were received. The responses to the questionnaires show the following data regarding shipments received from Los Angeles by the signers during the month of October, 1926:

Routing	Number of packages	
	40 pounds and under	40 pounds and over
Keystone Express -----	160	460
American Railway Express -----	30	14
Motor Transit Company -----	176	5
Railroad freight -----	4	37
Totals -----	370	516

Nineteen of the respondents to the questionnaire reported the present freight and express transportation facilities between Los Angeles and Ontario were fully responsive to their needs and that it was not necessary, in so far as the needs of respondents were concerned, to raise the package weight limit of applicant from 40 to 150 pounds.

H. C. Naylor, Secretary of Uplands Business Men's Association, filed as an exhibit a copy of the minutes of the regular monthly meeting of the association held on November 12, 1926, at which meeting the association voted to advise the Commission that, as far as the members

of the association were concerned, the present transportation facilities were adequate to meet the needs of the members.

A. V. Storer, manager of the Merchants Association of Pomona, testified that his organization consisted of 135 members; that he had made some investigation of the proposals of the applicant and of the existing transportation facilities available, from which he had concluded that there was no necessity for any change in the existing transportation facilities available to Pomona merchants.

T. R. Rex, operating under the fictitious name of Rex Transfer, testified that his operation covered routes between Los Angeles and Colton, Redlands, San Bernardino, East Highlands, Highlands, Rialto, Fontana and Yucaipa, a daily service being rendered to all points. Service was rendered twice daily to San Bernardino and Redlands, 75 per cent of his business being destined to such points. An expedited service was operated by a fast truck leaving Los Angeles at 12 o'clock, noon, arriving at San Bernardino at 3 p.m., thence going to Redlands, arriving at 4 p.m., all deliveries being made at both points by 5 p.m. Witness operates fifteen trucks and six trailers and is in position to satisfactorily care for all shipments which may be offered for transportation by his facilities.

H. G. Gunning, secretary-manager of Redlands Business Men's Association, an organization having 107 members, presented as an exhibit a copy of a resolution unanimously adopted at a meeting of the association on January 18, 1927, attended by fifty-nine members, commending the service of the Rex Transfer, operated by T. R. Rex, as being entirely satisfactory and adequate in every way to the merchants of Redlands.

L. R. Kagarise, proprietor of and operating under the name of Keystone Express, operating from Los Angeles via the Valley boulevard to El Monte (now Rosemead) and other points to Guasti, and over the Foothill boulevard from Azusa to Cucamonga, using as equipment sixteen trucks and five trailers. His rates provide for pick-up and delivery and approximately 75 per cent of his business is handled at his tariff minimum rate. A daily freight service is operated and express service twice daily, one express service leaving Los Angeles at 1 p.m. and delivering to consignees the same day, the other leaving Los Angeles on the freight trucks at 2 a.m. for the end of the route where it is transferred to the express trucks and delivered from the express trucks en route to Los Angeles to cover the 1 p.m. departure. This witness opposes the granting of the application on the basis that 60 per cent of the business that he is now handling would be open to competition under the proposed service of the applicant.

Protestant, American Railway Express Company, called as witnesses its superintendent and other operating officials. From their testimony

and exhibits filed the scope of the free pick-up and delivery service offered by this carrier was established as regards the communities here sought to be served by applicant, also the rates and service available. In the city of Los Angeles ninety-eight vehicles are employed exclusively in pick-up and delivery service. Service is available by this carrier by offering shipments or receiving same from all stations or trains, in addition to the free pick-up and delivery given at all principal points.

Herbert J. Banta, a wholesale dealer in automobile supplies at Los Angeles, testified that the average weight of his shipments did not exceed 40 pounds per package, probably not more than 10 per cent of his shipments being of heavier weight, and that he had no demand from his customers for a service as proposed by applicant.

Bruce Moore, with the Dean Hardware Company of Fullerton, a witness called by protestant American Railway Express Company, testified he had no need for the proposed service.

Hart Sheeran, superintendent of delivery for J. W. Robinson Company, a department store in Los Angeles, testified that he used the facilities of the Inter-City Parcel Service for all shipments of 40 pounds and under, and the American Railway Express Company and authorized truck lines for shipments in excess of a weight of 40 pounds per package; that the proposed service of applicant was not attractive, a direct delivery to consignee being necessary for his shipments.

Guy T. Hill, in charge of shipping for the Western Costume Company of Los Angeles, testified he used the facilities of the American Railway Express practically all the time, and had no need for the proposed service of applicant.

E. M. Whitney, shipping clerk for Butler-Schultz Company, wholesale millinery at Los Angeles, testified that his concern rarely shipped merchandise where the packages exceeded a weight of 40 pounds and that the proposed service of applicant was not needed by his company.

Harry Galbraith, employed by Buffam's Department Store at Long Beach, testified he had no need for and would not use the proposed service of applicant, his business requiring a store door pick-up and delivery.

Louis T. Fletcher, president, Service Motor Express, operating between Los Angeles, Riverside, San Bernardino, Beaumont, Banning and intermediate points, and to Orange County points of Anaheim, Fullerton and La Habra, testified that two daily services were operated from Los Angeles to Riverside and San Bernardino, one leaving Los Angeles at 12 noon, with afternoon delivery, the other leaving Los Angeles between 8 and 10 p.m. for delivery the following morning. The majority of this protestant's business consists of shipments weighing from 40 to 150 pounds.

J. W. Cawley, manager of Los Angeles and Newport Freight Line, operating between Los Angeles, Huntington Beach, Newport, Balboa and Laguna Beach, testified that his line operated a daily service leaving Los Angeles about 4.30 a.m., making store door deliveries shortly after 9 a.m. Pick-up service is furnished in Los Angeles. Practically 45 per cent of this protestant's business is handled under his minimum weight charge and his company, now operating two trucks, is able to handle an increased tonnage without adding additional equipment, or to add more equipment and schedules if the volume of business increased.

No evidence in protest was offered by protestant Pacific Electric Railway Company, The Atchison, Topeka and Santa Fe Railway Company; Southern Pacific Company or Los Angeles and Salt Lake Railroad Company.

We have fully and carefully considered all the evidence and exhibits in this proceeding.

Since the filing of the original application much of the territory then covered by applicant has been transferred to other operators, some new lines have been acquired and by the latter fact competition has been eliminated on some routes which are now served exclusively by applicant as regards motor stage operation. The changed conditions are fully reflected by amendments to the application duly filed herein.

Regarding the proposal of applicant to carry baggage up to a limit of 150 pounds on each full ticket where the one-way rate for such ticket is \$3 or more. Although the record shows no testimony other than that of the officials of applicant company, and much of the higher rate transportation has been eliminated by reason of applicant having sold or leased lines on which the one-way rate exceeded \$3 per one-way ticket, the proposal appears in the public interest and the record shows no material protest by competing motor carriers, and no protest whatever by rail carriers, against the granting of this portion of the application. A brief review of applicant's passenger tariff shows that the public would be served on its trips over the applicant's line between Los Angeles and Keen Camp, Idyllwild, San Bernardino Mountain resorts north of and including Crestline and Barrel Springs; between San Bernardino and Camp Fleming and Cedar Glenn on the Arrowhead Lake via Waterman Canyon route; between Lake Arrowhead, Camp Fleming and Richardson's Camp, Big Bear Dam and Pine Knot; between Arrowhead Lake, View Forest, Allison's Ranch, Fredalba Junction and Big Bear Dam and Pine Knot on the Lake Arrowhead to Big Bear route; between San Bernardino and Fredalba to Pine Knot and stations intermediate; between City Creek Bridge and Green Valley and stations intermediate to Pine Knot; between Dutch Johns, Barrel Springs, Inspiration Point, Fredalba, Fredalba Junction and Big Bear

Dam and Pine Knot, on the City Creek route to Big Bear; from Redlands, Mentone, Rainbow Ranch, Edison Power House, Lower Control, Forest Home Junction, Valley of the Falls; Forest Home to Summit, Oak Knoll Control and Pine Knot; from Mountain Home, Camp Angeles, Upper Control, Seven Oaks Junction, Seven Oaks, Clark's Ranch Road to Oak Knoll Control and Pine Knot on the Redlands to Big Bear Lake, via Mill Creek Canyon Route; from San Bernardino to Box "S" Ranch, Doble and Big Bear Valley, via Victorville route; and between all points where the combination of local rates of applicant results in a through one-way fare of \$3 or in excess thereof.

By stipulation of applicant the free baggage to be carried up to the limit of 150 pounds was to be such as is defined in section 2181 of the Civil Code of the State of California. The order herein will provide for the granting of the application in so far as it refers to the carriage of baggage.

As to the increased weight of express matter sought to be authorized by the removal of the present restriction of 40 pounds per package for express matter when carried on the passenger stages to a maximum weight of 150 pounds per package to be transported in accordance with applicant's specific offer of service as hereinabove fully set forth, we have carefully reviewed the evidence and are not of the opinion that justification has been shown for the granting of the increase in weight to the extent herein sought. The record shows few instances where a weight limit as great as 150 pounds per package is needed or where shipments of such weight can not be satisfactorily handled, and with reasonable expedition, by carriers already authorized to serve specific routes and communities. We are not impressed by the offer of service in so far as it proposes the transportation of express matter which, due to lack of space or character and suitability of shipment, can not be carried on passenger stages, but is proposed to be carried on service cars or trucks. A specific offer has been made to transport by service cars to any point or on any route when an accumulation of 500 pounds is on hand which can not be carried on the passenger stages of applicant. We believe that such an obligation would not be in the public interest in that it would require a material increase in the truck equipment of applicant, far beyond what may be necessary in the way of service cars to transport its own supplies and repair parts. There is no showing justifying the establishment of an express service, practically unlimited except as to the restriction to a maximum weight of 150 pounds per individual package, particularly in view of the record which shows that satisfactory and dependable service is available by authorized carriers having duly established routes, rates and schedules of service against which there is little or no complaint.

The primary business of this applicant is the transportation of passengers by automobile stage and the carriage of property has been developed as incidental to the passenger transportation. The present proposal of applicant seeks the establishment of an auxiliary and additional service for the carriage of property in competition with authorized carriers for which we find no justification from the record herein, nor do we find that it proposes to care for or create any new traffic but rather to divert traffic now moving by other authorized carriers against whom the record shows no complaint as to rates, schedules or service.

We are of the opinion and hereby find the following facts from the record herein:

1. That public convenience and necessity require the establishment by applicant of a service for the transportation of baggage over its authorized lines, said baggage to be of a weight not to exceed 150 pounds per piece and to be carried free between all points on applicant's system when the one-way passenger rate or fare is the sum of \$3 or more.

2. That public convenience and necessity require the transportation of express packages or parcels not exceeding 100 pounds in weight per package or parcel between all points on the several operative divisions of applicant's system, said express matter or parcels to be carried only on the passenger cars of applicant.

ORDER.

Public hearings having been held on the above entitled application, the matter having been duly submitted, the Commission now being fully advised and basing its order on the findings of fact as appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment by Motor Transit Company, a corporation, of a baggage service in conjunction with its passenger stage service for the free transportation of baggage, not exceeding in weight 150 pounds per piece, between all stations on its system where the one-way rate or fare is the sum of \$3 or more; and

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the operation by Motor Transit Company, a corporation, of an express service for the transportation of parcels and packages not exceeding a weight of 100 pounds per parcel or package, between all points on the several operative divisions of the Motor Transit Company system, said express to be carried only on the passenger cars or stages of applicant; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted to Motor Transit Company,

a corporation, for the transportation of baggage, parcels and express in accordance with the foregoing declaration and subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from the date hereof.

2. Applicant shall file, in duplicate, within a period of not to exceed thirty days from the date hereof, tariff of rates, schedules, rules and regulations, such tariffs, schedules, rules and regulations to be identical with those filed with the application and amendments thereto and as qualified by the order herein, and to be satisfactory in form and substance to the Railroad Commission. Operation of the service herein authorized shall be commenced within a period of not to exceed forty-five days from the date hereof.

3. The rights and privileges herein authorized may not be sold, leased, transferred, assigned, or service thereunder discontinued unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance of service has first been secured.

4. No vehicle may be operated by applicant herein unless said vehicle be owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

5. The rights and privileges for the transportation of baggage and express are in lieu of all operative rights heretofore granted to Motor Transit Company, a corporation, except as to such rights as may heretofore have been granted for the transportation of baggage not exceeding 30 pounds in weight.

6. No authority is hereby conveyed for the merging of operative rights or for the operation of equipment between divisions as heretofore established by other decisions of this Commission.

For all purposes, other than hereinabove stated, the effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this twenty-fifth day of August, 1927.

DECISION No. 18755.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CALIFORNIA CORPORATION, FOR AN ORDER UNDER SECTION 17 (b) OF THE PUBLIC UTILITIES ACT AUTHORIZING THE REPAYMENT OF A PORTION OF THE CHARGES MADE AND COLLECTED BY SAID COMPANY FOR GAS SUPPLIED TO CONSUMERS IN THE CITY AND COUNTY OF SAN FRANCISCO DURING THE PERIOD BEGINNING JULY 1, 1914, AND ENDING JUNE 30, 1916.

Application No. 13869.

Decided August 31, 1927.

RATES—GAS UTILITY—REFUND AGREEMENT.—Permission granted applicant to carry out terms of refund agreement under which rate litigation was compromised with the city and county of San Francisco, on ordinance gas rates fixed by board of supervisors..

BY THE COMMISSION.

ORDER APPROVING COMPROMISE AND AUTHORIZING REFUNDS.

Pacific Gas and Electric Company, a corporation, having filed with this Commission the above entitled application for an order authorizing said company to refund all amounts charged and collected by it for gas supplied to its consumers in the city and county of San Francisco during the period of two years commencing July 1, 1914, and ending June 30, 1916, in excess of the maximum rates fixed by two certain ordinances of the city and county of San Francisco, being Ordinances Nos. 2814 and 3338 (new series), together with interest on such amounts at the rate of 7 per cent per annum to July 6, 1921, in the manner and upon the terms and conditions provided in the final decrees made and entered in two certain equity suits in the United States District Court in and for the Northern District of California, Southern Division, which suits are designated in the Equity Docket kept by the clerk of said court as numbers 97 and 190; and

It appearing that the above referred to final decrees made and entered in said Equity Suits numbers 97 and 190 were entered by the court upon stipulation of applicant Pacific Gas and Electric Company and the city and county of San Francisco, parties to said actions, and that said stipulation was entered into by the parties in order that the litigation involved therein might be compromised and determined; and

It further appearing that the public interest will thus be subserved by the determination of said litigation, by the approval of said compromise by this Commission and by the granting of the authority requested in this application, and, further, it appearing that no necessity exists for a public hearing in this matter; now, therefore,

It is hereby ordered, that applicant Pacific Gas and Electric Company, a corporation, be and the same is hereby authorized to refund all amounts charged and collected by it for gas supplied to its consumers in the city and county of San Francisco during the period of two years commencing July 1, 1914, and ending June 30, 1916, in excess of the maximum rates fixed by two certain ordinances of the city and county of San Francisco, being Ordinances Nos. 2814 and 3338 (new series), together with interest on such amounts at the rate of 7 per cent per annum to July 6, 1921, in the manner and upon the terms and conditions provided in the final decrees made and entered in two certain equity suits in the United States District Court in and for the Northern District of California, Southern Division, which

suits are designated in the Equity Docket kept by the clerk of said court as numbers 97 and 190; and

It is hereby further ordered, that the compromise above referred to, effected by applicant Pacific Gas and Electric Company, a corporation, and the city and county of San Francisco, which compromise forms the basis of the final decrees entered in the above referred to equity suits numbers 97 and 190, be and the same is hereby approved.

Dated at San Francisco, California, this thirty-first day of August, 1927.

DECISION No. 18759.

IN THE MATTER OF THE APPLICATION OF SIERRA MADRE TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FILING OF RULES AND REGULATIONS RELATING TO MOVES AND CHANGES.

Application No. 13989.

Decided September 2, 1927.

RATES—TELEPHONE UTILITY—MOVES AND CHANGES.—Standard charge of \$3 authorized for moves and changes in location or type of equipment.

BY THE COMMISSION.

ORDER.

Whereas, Sierra Madre Telephone and Telegraph Company has made application to this Commission for authority to file and make effective certain rules and regulations relative to charges for moves and changes; and

Whereas, this Commission found certain rules and regulations to be reasonable in its Decision No. 13478 (24 C. R. C. 854), dated April 24, 1924, and there appearing no good reason why applicant should not now file and make effective similar rules and regulations; and

Whereas, it appearing that this is not a matter in which a public hearing is necessary;

It is hereby ordered, that Sierra Madre Telephone and Telegraph Company be and it is hereby authorized to make effective as of October 1, 1927, the following rules and regulations:

Moves and changes of telephone apparatus and wiring on the subscriber's premises, at the request of the subscriber, will be made by the company, and the charges for such work will be as follows:

A. Telephone sets.

1. Moving from one location to another..... \$3 00
2. Change in type or style..... 3 00

B. Other equipment and wiring.

Charges for moving or changing of equipment or wiring, other than that included under A above, will be an amount equal to the actual cost of labor and material involved.

C. Maintenance.

The charges specified above do not apply if the changes or moves are initiated by the telephone company and required for the proper maintenance of the equipment or service.

D. Change in class of service.

The charges specified above do not apply if the changes are required because of a change in type, class or grade of service.

The authority herein granted is subject to the condition that said rules and regulations be submitted for filing with this Commission on or before September 15, 1927.

Dated at San Francisco, California, this second day of September, 1927.

DECISION No. 18767.

IN THE MATTER OF THE APPLICATION OF HOME TELEPHONE AND TELEGRAPH COMPANY OF PASADENA, NORTHERN CALIFORNIA TELEPHONE COMPANY, ONTARIO AND UPLAND TELEPHONE COMPANY, SOUTHERN CALIFORNIA TELEPHONE COMPANY, AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY FOR AN ORDER MODIFYING GENERAL ORDERS NOS. 71, 74 AND 74-A.

Application No. 13702.

Decided September 6, 1927.

COMMISSION'S GENERAL ORDER—TELEPHONE UTILITY—DIRECTORY LISTINGS.—
Application for abrogation of General Order No. 71 granted, and General Order No. 71-A issued in its place. Applicant telephone utilities authorized to discontinue practice of inserting boldface type listings in the alphabetical sections of their telephone directories.

James G. Marshall, for Applicants.

Ernest Irwin, for California Independent Telephone Association, an interested party.

BY THE COMMISSION.

OPINION.

The applicants hereinabove named allege that by reason of the terms and conditions of General Order No. 71 of this Commission a burden and expense are imposed upon the telephone business, which they urge be reduced. They further allege that as to general Order No. 74 of this Commission (as extended by General Orders 74-A and 74-B) "a diversity of conditions exists which can only be clarified under the authority and further order of this Commission." Applicants pray for a modification of the above mentioned general orders.

A hearing was had before Commissioner Brundige, at which time applicants appeared and presented testimony in support of their contention and at which the California Independent Telephone Association was also represented.

Upon a careful consideration of the said application and the testimony adduced thereunder, we are of the opinion that General Order No. 71 of this Commission should be canceled, and that in its place a

new general order, to be entitled General Order No. 71-A, reading as follows, should be promulgated:

GENERAL ORDER
No. 71-A.

IN THE MATTER OF THE FILING OF TELEPHONE DIRECTORIES BY
TELEPHONE UTILITIES.

It is hereby ordered, that each and every person or corporation conducting a public utility telephone business in this state issuing telephone directories subsequent to September 1, 1927, shall file with the Railroad Commission of the State of California two (2) copies of each such directories so issued at the time of the distribution thereof to the general public.

It is hereby further ordered, that General Order No. 71 of this Commission be and the same is hereby canceled and abrogated.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA,
By HENRY G. MATHEWSON, Secretary.

It is our further opinion that nothing has been presented in this matter which would warrant this Commission in amending the provisions of our General Order No. 74 as extended by our General Orders Nos. 74-A and 74-B.

The five applicants in this proceeding have requested herein an order which will authorize them to discontinue the practice of inserting listings in boldface type in the alphabetical sections of their directories and of entering into contracts for inserting such listings. This service is a form of advertising service and covered by General Order No. 74, as modified by General Orders Nos. 74-A and 74-B. Inasmuch as the directories published by each of the said applicants carry a classified business directory section in which business subscribers are listed, it appears that no need exists for the continuance of the practice of inserting boldface listings of business subscribers in the alphabetical section or for so emphasizing such subscribers and that the authority requested should be granted. By granting such authority and by the elimination of such listings in the alphabetical sections, the directories will be rendered more readily usable to subscribers and the public generally and confusion in such use will be minimized.

An order will be entered giving effect to the above conclusion.

ORDER.

Application having been made by the above entitled public utility telephone corporations asking for an order modifying General Orders Nos. 71, 74 and 74-A of this Commission, hearing having been had, testimony having been adduced, the matter having been submitted, and the Commission being now fully advised in the premises;

It is hereby ordered, that General Order No. 71 of this Commission be and the same is hereby canceled and abrogated, and that in its place and stead a new general order, to be numbered General Order No. 71-A, reading in words and figures as expressed hereinabove, be

and the same is hereby directed to be published by the secretary of this Commission; and

It is hereby further ordered, that the five applicants in this proceeding be and they are hereby authorized to discontinue the practice of inserting boldface type listings in the alphabetical sections of their telephone directories and of entering into contracts for such service.

It is hereby further ordered, that all other matters contained in said application be and the same are hereby denied.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this sixth day of September, 1927.

DECISION No. 18769.

CALIFORNIA FIREPROOF STORAGE COMPANY, A CORPORATION
vs.
SOUTHERN CALIFORNIA TELEPHONE COMPANY, A CORPORATION.

Case No. 2175.

Decided September 7, 1927.

RATES—TELEPHONE UTILITY—DIRECTORY LISTINGS—CLASSIFIED ADVERTISING.—

Finding that there had been no violation of the Public Utilities Act by the alleged rates charged, the complaint is dismissed. The request for reparation is not allowed.

H. S. Olewett, for Complainant.
Oscar Lawler, for Defendant.

BY THE COMMISSION.

OPINION.

The complaint herein involves certain charges attempted to be made by defendant for boldface listings in its telephone directory and for advertising matter which complainant desired to have included therein. It is alleged that the telephone directory published by defendant is a necessary incident and part of the facilities of communication furnished by defendant to its subscribers, and is required and is an essential and integral part of the telephone business carried on by defendant. It is further alleged that a classified business telephone directory, listing subscribers under classifications showing the particular business or occupation of said subscribers, has been published and is also required in connection with the public service rendered by defendant. For this service, it is alleged, defendant has established and maintained a rate for advertising in said classified business directory of \$50 per month per half page, which charge defendant is alleged to have increased to the sum of \$250 per month without authority from this Commission. It is alleged that from other firms than complainant the charge of \$50 only per half page is still demanded. This action

is alleged to constitute an unreasonable difference as to classes of service, in violation of section 19 of the Public Utilities Act, and also to constitute an unlawful charge and increase in the rate without authority of this Commission.

It is further alleged that defendant has also without authority from this Commission raised the rates and charges for listing the name of complainant as a subscriber of said telephone directory in boldfaced, black type from one dollar per month to five dollars per month, which, it is alleged, constitutes a change in the rate in violation of sections 15 and 63 of the Public Utilities Act. The prayer is that the defendant be ordered and required to accept from complainant, and publish in the classified business directory of said defendant, the advertising matter offered by complainant at the rate and charge of \$50 per half page per month, and to include in said advertisement the names and addresses of firms and corporations engaged in a like and similar line of business in the locality. It is further prayed that this company be ordered to charge and collect from complainant and its other subscribers the sum of one dollar per month only for printing the name of complainant and said other subscribers in boldfaced, black type in said directory in place of five dollars per month. It is also prayed that this Commission require defendant to refund to complainant all amounts in excess of one dollar per month collected and received by defendant from complainant for said printing of complainant's name in boldfaced, black type in said directory.

Believing that it did not possess jurisdiction over the advertising rates mentioned in said complaint, this Commission dismissed the same, but the Supreme Court of this state, upon petition of this complainant, issued its writ of mandate, directing this Commission to take and exercise jurisdiction over the subject matter of said complaint (*California Fireproof Storage Co. vs. Brundige et al.*, 199 Cal. 185). This Commission, therefore, issued an order setting aside its order of dismissal and a hearing was thereafter had before Commissioner Brundige, at which time testimony was introduced. Subsequently, briefs were filed by both parties to this proceeding.

Subsequent to the issuance of the writ of mandate by the Supreme Court, as above mentioned, this Commission issued its General Order No. 74, directing telephone companies publishing directories within this state to file with this Commission their schedules of rates and charges for classified listings and advertising service in their telephone directory or directories, together with all classifications, rules and regulations appertaining thereto. By subsequent orders (General Orders Nos. 74-A and 74-B) the time for filing said rates and charges has been extended, but, except for said extension of time, said order remains in full force and effect.

The testimony presented in this matter discloses that the allegation that defendant has charged the rate of \$50 per half page per month for advertising in its directory is not strictly true, but that said charges have been changed from time to time, and have been varied since March, 1920, from \$40 per half page per month to \$50 per one-third page per month with correspondingly different charges for different sizes and classifications of advertising space. It was also shown that the complainant had not itself ever contracted with the telephone company for one-half page advertising, but that it had at one time contracted for a one-ninth portion of a page at a rate then in force. The testimony also shows that complainant's desire was in fact to have included in a single half-page advertisement the names of five separate and different organizations doing a business similar to that of complainant, with which desire defendant refused to comply. The testimony further shows that this company did attempt to increase its rate for blackfaced publication to \$5 per month, but also that the rate had been changed from \$1 to \$2 as early as 1922. It is contended by defendant that the advertising section of the telephone directory is entirely distinct from its public utility service; that advertising therein is not confined to telephone subscribers; that the contracts for telephone service and for advertising are independent and unrelated, and that unless its operations in this regard should impinge strictly upon the utility service, the Commission would not be justified in interfering with said advertising service.

It is further contended that the Supreme Court, in requiring this Commission to take jurisdiction in this matter, accepted and acted upon as true certain allegations of the complaint which it is alleged are now demonstrated not to be in fact.

Complainant admits that certain of its allegations are not in accord with the facts, but contends that the material allegations of the complaint have been shown to be substantially correct, to wit: that there was an attempt by defendant to increase its advertising rates and its rates for boldfaced listings in its directories without authority from this Commission, in violation of section 63 of the Public Utilities Act. Inasmuch as the evidence shows that no contract along the lines specified in the complaint was ever in force between complainant and defendant, we believe that this complaint must be dismissed in so far as it alleges a violation of the statute for the alleged increase of advertising space rates. Our General Order No. 74, above mentioned, is, we believe, in compliance with the material matters contained in the order of the Supreme Court in the mandate proceedings herein.

With reference to the prayer of the complainant for an order of this Commission directing defendant company to list its name in boldfaced

type in the alphabetical section of its directory, and charge a rate of but one dollar per month, reference is made to a recent decision of this Commission in Application No. 13702 (Decision No. 18767). In that decision the Commission authorized defendant company and certain other public utility telephone companies to discontinue the practice of inserting in their telephone directories boldface type listings in the alphabetical sections and of entering into contracts for such service, in order to facilitate and expedite the use of their directories by subscribers and the public generally. In view of the authorization granted to defendant company in said decision, this Commission can not now grant the prayer of complainant herein for an order along the lines above mentioned, and said prayer will, therefore, be denied. The authorization contained in Decision No. 18767 was granted for good cause and no reason exists for the modification of said order of authorization.

In view of the peculiar situation involved herein, and of the questions of jurisdiction which were involved, and the testimony adduced herein, we do not believe that reparation should be granted to complainant in connection with the charges for boldfaced listings. The testimony herein is of so meager a nature on this point that we do not believe that we would be justified in issuing such an order.

ORDER.

Complaint having been made as above entitled, hearings having been had, briefs having been filed, the matter having been submitted, and the Commission being fully informed in the premises;

It is hereby ordered, that this complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this seventh day of September, 1927.

DECISION No. 18773.

SACRAMENTO BOX AND LUMBER COMPANY, SETZER BOX COMPANY,

vs.

SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, THE WESTERN PACIFIC RAILROAD COMPANY, CENTRAL CALIFORNIA TRACTION COMPANY, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 2274.

Decided September 8, 1927.

RATES—STEAM RAILROAD—LUMBER—BOX SHOOK.—Assailed rates between Sacramento and points in San Joaquin Valley and southern California found unjust, unreasonable, discriminatory and prejudicial to the extent they exceed rates

fixed by the Commission to specified points. Carriers ordered to file a new schedule of rates to all points involved that will not be unjust nor discriminatory to Sacramento.

E. W. Hollingsworth, for Complainants.

F. W. Mielke and *J. N. Bell*, for the Southern Pacific Company, Los Angeles and Salt Lake Railroad Company and Pacific Electric Railway Company.

Berne Levy and *Platt Kent*, for The Atchison, Topeka and Santa Fe Railway Company.

James S. Moore, Jr., for the Western Pacific Railroad Company.

W. P. Jennings, for the Central California Traction Company.

A. Larsson, for the Larsson Traffic Service, Intervener.

E. R. Plum, for the Stockton Chamber of Commerce, Intervener.

Clarence A. Webster, for Stockton Box Company, Intervener.

Charles G. Twohy, for Delta Box Company, Intervener.

BY THE COMMISSION.

OPINION.

Complainants are engaged in the manufacture and sale of lumber and box shook, with their principal place of business at Sacramento. By complaint seasonably filed and as amended at the hearing it is alleged that the rates on lumber and box shook as described in defendants' tariffs applicable from Sacramento to various points in the San Joaquin Valley and southern California located on the lines of the Southern Pacific Company; Atchison, Topeka and Santa Fe Railway, Los Angeles and Salt Lake Railroad and Pacific Electric Railway are (a) unjust and unreasonable, and (b) unduly and unjustly discriminatory and prejudicial as compared with the contemporaneously effective rates from San Francisco, San Jose, Vallejo Junction, Port Costa, Bay Point, Pittsburg and Stockton.

Reasonable, nondiscriminatory and nonprejudicial rates are sought for the future. Rates will be stated in cents per hundred pounds.

The Stockton Chamber of Commerce, Stockton Box Company and Delta Box Company intervened for the purpose of maintaining satisfactory differentials as between Sacramento and Stockton. The Tidewater Southern Railway Company intervened on behalf of defendants.

A public hearing was held before Examiner Geary at San Francisco, and the matter having been duly submitted and briefs filed, is now ready for an opinion and order.

The specific destination territory involved may be roughly described as all main and branch line points on the Southern Pacific Company south of Tracy, Lathrop and Stockton, to and including Greenspot; all main and branch line points on The Atchison, Topeka and Santa Fe Railway south of Stockton to and including Wilmington, Redondo Beach and National City; points on the Pacific Electric Railway named in Index Nos. 2400 to 2865, pages 83 and 84 of Pacific Freight Tariff Bureau Tariff No. 48-J, C. R. C. No. 394; and East San Pedro, Highgrove and other points on the Los Angeles and Salt Lake Railroad named in Index Nos. 2103 to 2325 inclusive, page 82 of Pacific Freight Tariff Bureau Tariff No. 48-J, C. R. C. No. 394.

While the complaint brought into issue the rates on lumber, the testimony and evidence submitted were devoted entirely to the rates on box shook, complainants stating that the lumber manufactured at their plants is practically all shipped to eastern interstate destinations. The complaint also alleged that the rates to points on the Tidewater Southern Railway are unjust, unreasonable, unduly discriminatory and prejudicial, but this line was not made a defendant in this proceeding. Our findings will be devoted solely to the rates on box shook from and to points on lines of those carriers properly made parties defendant.

Complainant Sacramento Box and Lumber Company commenced operations at Sacramento June 11, 1923, and operated continuously until August 8, 1926. On the latter date its mill was destroyed by fire, but it is of record that the reconstruction of the plant is being carried forward, and operations were expected to be resumed about March 1, 1927. During the period of production the annual output approximated twenty million board feet of shook, and until operations were temporarily discontinued complainant had shipped 1741 cars of box shook to various points in California, of which 38 per cent were destined to the Sacramento Valley, 33.7 per cent to the San Joaquin Valley, 4.5 per cent to the Los Angeles district, 4.9 per cent to the Imperial Valley, and the balance to Monterey, Watsonville, Santa Clara Valley, Sonoma and Napa counties, and San Francisco Bay points. The evidence indicates that this complainant is in competition with box shook mills located generally over the entire state but principally with those situated in close proximity to the timber and to the mills at San Francisco, Oakland, Alameda, Pittsburg, Stockton, San Jose and in the San Joaquin Valley. The principal competition is for the tonnage moving into the San Joaquin Valley.

Complainant Setzer Box Company had not at the time of the hearing commenced operations, but was constructing a box shook factory at Sacramento which it anticipated would be in operation on or about April 1, 1927, with an output approximating that of the Sacramento Box and Lumber Company.

The present rates on shook from Sacramento to the San Joaquin Valley and southern California are not predicated on any established basis, either with respect to distance hauled or with relation to the alleged competitive points. On the Oakdale branch of the Southern Pacific, from Orford to Nairn inclusive, the rates range from 8½ cents for a haul of 53 miles to 17½ cents for a haul of 115 miles. The contemporaneous rates from Vallejo Junction and Pittsburg to the same destinations vary from 1 to 2½ cents lower than the Sacramento rates, from San Jose and San Francisco they are on the same basis, and from Stockton 4 to 6 cents lower. Sacramento is closer to the Oakdale territory points than are either Vallejo Junction, Pittsburg, San Jose or

San Francisco by 26, 5, 31 and 43 miles, respectively, and Stockton is 48 miles closer than Sacramento.

On the main line of the Southern Pacific on the east side of the valley from Manteca south to Earlimart the Sacramento rates vary from $10\frac{1}{2}$ cents for a distance of 62 miles to 35 cents for a distance of 237 miles, and the Vallejo Junction and Pittsburg rates are from 1 to $3\frac{1}{2}$ cents lower. The San Jose-San Francisco rates to these points are in some instances the same as the Sacramento rates and in other instances from $\frac{1}{2}$ cent to $3\frac{1}{2}$ cents lower, while the Stockton rates range from $3\frac{1}{2}$ cents to 7 cents lower. The distances from Vallejo Junction, San Jose and San Francisco to the above points are 7, 12 and 24 miles farther than from Sacramento, and from Pittsburg and Stockton the distances are 14 and 48 miles less.

On the west side of the San Joaquin Valley, Lyoth to Hanford inclusive, Sacramento, San Jose and San Francisco are generally on the same rate basis. There are however a few instances in which the rates from San Jose and San Francisco are slightly higher than from Sacramento, and conversely the Sacramento rates are in some instances lower than the San Jose-San Francisco rates and the distance from San Francisco is 3 miles greater. From Vallejo Junction and Pittsburg the rates to the west side points are from $\frac{1}{2}$ cent to $2\frac{1}{2}$ cents, and from Stockton $2\frac{1}{2}$ cents to 6 cents, lower than the Sacramento rates, while the distance from Vallejo Junction, Pittsburg and Stockton is 14, 35 and 48 miles, respectively, less than from Sacramento.

On the main line of the Southern Pacific, Earlimart and south, the rate from Sacramento is 35 cents and this rate is blanketed for a maximum distance of 275 miles to and including Los Angeles, San Pedro, Newport Beach, Huntington Beach, San Bernardino and Greenspot. From Vallejo Junction, Pittsburg, San Jose, San Francisco and Stockton the blanketed rate to these points is $31\frac{1}{2}$ cents. Thus, with the exception of Sacramento, all points have been placed on the same basis, namely, $31\frac{1}{2}$ cents, although the distance from Sacramento is 19 miles less than from San Francisco and 7 miles less than from Vallejo Junction. The 35-cent rate from Sacramento and the $31\frac{1}{2}$ -cent rate from the other points of origin also apply to all points on the Pacific Electric and Los Angeles and Salt Lake Railroad here involved.

The present rates to the branch line points on the Southern Pacific are likewise on an inconsistent basis. For example, to the Clovis branch the rate at the junction point, Fresno, is 27 cents from Sacramento and $25\frac{1}{2}$ cents from San Francisco, but at Friant, the terminus of the branch, the differential is reversed and the rate from Sacramento is $1\frac{1}{2}$ cents lower than from San Francisco. Similarly, on the Owenyo branch the Sacramento rate at Chaffee is now $3\frac{1}{2}$ cents higher than the rate from Vallejo Junction, Pittsburg, San Jose, San Francisco and

Stockton, but at Lone Pine, a more distant point on the same branch, the rates are the same from all six points. Practically the same differentials prevail from Sacramento to points on The Atchison, Topeka and Santa Fe Railway in the San Joaquin Valley and in southern California.

Complainants maintain that due to the inconsistent and unsatisfactory rate adjustment they are laboring under a decided disadvantage in marketing their shooks in the San Joaquin Valley and in southern California. They compare the assailed rates with rates from San Pedro to points in the San Joaquin and Imperial valleys, established by this Commission in Case No. 1951, *Los Angeles Lumber Products Company vs. Southern Pacific*, 26 C. R. C. 217. In that proceeding we set as just, reasonable, nondiscriminatory and nonprejudicial a rate of 29 cents from San Pedro to Bakersfield, a distance of 193 miles, and this rate was blanketed north to and including Fresno, 300 miles from San Pedro; on the east side of the San Joaquin Valley a rate of 30 cents at Madera and Merced, and 31 cents at Modesto and Manteca, distances of 322, 355, 392 and 409 miles respectively from San Pedro; on the west side of the valley a rate of 30 cents at Hanford, 289 miles from San Pedro, which rate was blanketed north to and including Los Banos, 368 miles; at Volta and Lyoth, for distances of 373 and 423 miles, a rate of 31 cents, and at San Francisco, Niles, San Jose, Port Costa, Stockton, Sacramento and the intermediate points a blanketed rate of 31½ cents for a maximum haul of 470 miles.

A witness for complainants stressed the fact that the rate from Merced, Madera, Clovis and El Prado to Sacramento is 14 cents whereas the rates from Sacramento to these points are 17½ cents, 25 cents, 28½ cents and 33 cents, respectively. There were also introduced exhibits showing that the rates from El Prado to Sacramento territory were considerably lower than the rates from Sacramento to points in the San Joaquin Valley for equidistant hauls. The following statement compiled from Complainants' exhibit is illustrative:

From Sacramento to			From El Prado to		
	Miles	Rate		Miles	Rate
Sanger -----	185	28½	Sacramento-----	189	14
Dinuba -----	200	29½	Roseville -----	201	14
Visalia -----	211	31½	Penryn -----	210	14
Lindsay -----	228	33	Clipper Gap-----	225	16
Porterville -----	239	34	Marysville -----	235	22½
Slater -----	261	35	Oroville -----	261	25½
Bakersfield -----	278	35	Chico -----	279	28

Another exhibit introduced by complainants indicates that at seventeen points in central California, Sacramento is subjected to differentials of 4 to 6 cents over Stockton for an additional haul of 48 miles, but from Weed, which is 261 miles north of Sacramento, to these same

points the differential in favor of Sacramento is only $\frac{1}{2}$ cent at two destination points, $1\frac{1}{2}$ cents at five points, $2\frac{1}{2}$ cents at three points, $3\frac{1}{2}$ cents at one point, $4\frac{1}{2}$ cents at one point, and at five points the rates are the same. A somewhat similar showing is made with respect to the existing differentials in rates from Red Bluff, Dorris, Newcastle, Westwood and Santa Cruz.

Defendants showed by the testimony of their witnesses that the blanketed $31\frac{1}{2}$ -cent rate between San Francisco Bay points and southern California was established and is now maintained to meet water competition. This competition is evidenced by the fact that during 1925 San Francisco Bay points received a total of 1,081,402,900 board feet of timber from ocean vessels and Los Angeles Harbor received 1,306,635,053 board feet. In 1910 the rate to Los Angeles from the bay district was 30 cents, and this rate also applied from Sacramento. Due to the wartime increases the 30-cent rate was successively increased to 35 cents (General Order No. 28 of the Director General of Railroads) and 44 cents (18 C. R. C. 646.) Effective October 3, 1921, the 44-cent rate was reduced from all points of origin save Sacramento to 35 cents. This reduction it is claimed was made to meet the acute water competition. On July 1, 1922, these rates were reduced 10 per cent (Reduced Rates 1922), making the Sacramento rate $39\frac{1}{2}$ cents and the rate from the other origin points $31\frac{1}{2}$ cents. Effective January 29, 1923, the Sacramento rate was reduced to 35 cents and since that time there has been no change in this rate. Thus from 1910 until October 3, 1921, Sacramento enjoyed the same rate to points in southern California as were applicable from San Francisco, Stockton, Pittsburg and the other San Francisco Bay points, but since that time the differential in favor of the bay points has been successively 9 cents, 8 cents and $3\frac{1}{2}$ cents.

Defendants contend it is not unusual to carry rates from Sacramento to points in the San Joaquin Valley and to southern California higher than those contemporaneously in effect from San Francisco Bay points, and refer to such commodities as beans, canned goods, lime, plaster, roofing and paddy rice, with the differentials in favor of the bay points varying from $1\frac{1}{2}$ cents to 4 cents per hundred pounds. Complainants show by their exhibits that on such important commodities as grain and grain products, hay, flour, cereals and cattle Sacramento is accorded lower rates than San Francisco, varying from $\frac{1}{2}$ cent to 5 cents per hundred weight on the first four commodities and \$2 to \$11 per car on cattle. Defendants cite the fact that the box shook rates from Sacramento have not operated to the detriment of that point, inasmuch as the tonnage moved during the year 1925 was far in excess of the combined movements from San Francisco, Vallejo Junction, Port Costa, Bay Point, Pittsburg and Stockton, there having been 410 cars for-

warded from Sacramento and only 173 cars from Stockton and the San Francisco Bay district.

Reference is also made by defendants to the lumber rates set by this Commission in Case No. 1951, *supra*, applying from San Pedro to Saugus and points north thereof, which they contend were predicated under prejudice and not upon the basis of unreasonableness. This contention is not borne out by the record, for in that proceeding we found the rates were excessive, unreasonable, unjust, discriminatory and prejudicial.

Defendants further urge that since the tonnage is now moving freely from Sacramento, the competition encountered is of no consequence and therefore there is no undue prejudice or discrimination. With this contention we are not in accord, for the mere fact that Sacramento markets more box shock than the competing points may be due to a combination of economic conditions entirely foreign to the freight rates. It is a well established principle in rate making that a shipper is entitled to just, reasonable, nondiscriminatory and nonprejudicial rates regardless of the amount of the business transacted.

After a careful consideration of all the facts of record we are of the opinion and find that the rates assailed from Sacramento applying to box shock are now and for the future will be unjust, unreasonable, discriminatory and prejudicial to the extent that they exceed the following rates:

(1) 31½ cents per 100 pounds to Burr, Quail, Los Angeles, San Pedro, Whittier, Los Alamitos, Tustin, Newport Beach, Huntington Beach, Pasadena, Duarte, Chino, Colton, San Bernardino, Riverside and Greenspot on the Southern Pacific Company; Allensworth, Lindsay, San Bernardino, Redlands, Los Angeles, Wilmington, Redondo Beach and National City on The Atchison, Topeka and Santa Fe Railway; points on the Pacific Electric Railway named in Index Nos. 2400 to 2865, inclusive, pages 83 and 84 of Pacific Freight Tariff Bureau Tariff No. 48-J, C. R. C. No. 394; points on the Los Angeles and Salt Lake Railroad named in Index Nos. 2103 to 2325 inclusive, page 82 of Pacific Freight Tariff Bureau Tariff No. 48-J, C. R. C. No. 394.

(2) To points on the Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway in the territory not described in the preceding paragraphs, the following rates:

Southern Pacific Company.

Milton -----	11	Jamesan -----	25½
Oakdale -----	11	Crayold -----	25½
Hickman -----	11½		
Nairn -----	15½	Cuneo -----	35½
Arblos -----	25½	Marsala -----	35½
Mendota -----	25½	Modesto -----	11
Ingle -----	25½	Turlock -----	13½

Merced -----	15½	Ultra -----	31½
Berenda -----	22	Richgrove -----	31½
Raymond -----	27	Jovista -----	34
Madera -----	23	Goshen Junction -----	29½
Biola Junction -----	24½	Tulare -----	30½
Biola -----	29	Oil City -----	35
Fresno -----	25½	Porque -----	36
Barton -----	27	Vaccaro -----	35½
Friant -----	32½	Chaffee -----	35½
Blossoma -----	26	Garlock -----	37
Exeter -----	30½	Rand -----	38
Worth -----	36	Searles -----	39½
Clavicle -----	37½	Olancha -----	44½

The Atchison, Topeka and Santa Fe Railway.

Oakdale -----	11	Woodlake -----	30½
Empire -----	11	Exeter -----	30½
Denair -----	13½	Tulare -----	30½
Merced -----	15½	Bowles -----	26
Fresno -----	25½	Corcoran -----	30½
Reedley -----	28½		

Because of the scope of the distribution territory here involved it is impracticable to prescribe the rate at each individual point. Defendants will be expected to revise the rates at the points not specifically named in harmony with those here set forth.

ORDER.

This case being at issue upon complaint, and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, The Western Pacific Railroad Company, Central California Traction Company, Los Angeles and Salt Lake Railroad Company, and Pacific Electric Railway, according as they participate in the transportation, be and they are hereby notified and required to cease and desist on or before September 25, 1927, and thereafter abstain from publishing, maintaining and applying rates on box shook in carloads not in accordance with the opinion which precedes this order.

It is hereby further ordered, that the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, The Western Pacific Railway Company, Central California Traction Company, Los Angeles and Salt Lake Railroad Company, and Pacific Electric Railway, according as they participate in the transportation, be and they are hereby notified and required to establish on or before September 25, 1927, upon notice to this Commission and to the general public by not less

than ten days' filing and posting in the manner prescribed in section 14 of the Public Utilities Act, and thereafter to maintain and apply to the transportation of box shooks in carloads the rates as described in the opinion which precedes this order.

Dated at San Francisco, California, this eighth day of September, 1927.

DECISION No. 18775.

IN THE MATTER OF THE APPLICATION OF PEERLESS STAGES, INCORPORATED, A CORPORATION, TO PURCHASE THE OUTSTANDING CAPITAL STOCK IN AUTO TRANSIT COMPANY OWNED BY O. A. MOON, J. S. NICKOLS, C. L. SIMONDS AND GEORGE H. HIGGINS.

Application No. 13808.

IN THE MATTER OF THE APPLICATION OF PEERLESS STAGES, INCORPORATED, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ITS CAPITAL STOCK.

Application No. 13837.

Decided September 10, 1927.

TRANSFER—AUTO STAGES—STOCK—TO PURCHASE—TO ISSUE AND SELL.—Peerless Stages, Inc., authorized to acquire stock of Auto Transit Company at a cost of \$150,000 providing it charge the difference between \$53,130, the value of the tangible property acquired, and the full purchase price, to surplus. Purchaser also authorized to issue and sell at not less than par \$150,000 of preferred stock and to use not exceeding \$53,130 of the proceeds to finance the acquisition of the properties of Auto Transit Company.

Harry A. Encell, for Applicant.

BY THE COMMISSION.

OPINION.

In application No. 13808, Peerless Stages, Incorporated, asks the Railroad Commission to make its order approving a certain agreement under the terms of which it has agreed to purchase the outstanding stock of Auto Transit Company, and authorizing the issue of notes as hereinafter set forth.

In application No. 13837, Peerless Stages, Incorporated, asks the Commission to authorize it to issue and sell, at 80, \$150,000 of its 8 per cent cumulative preferred stock and to use \$75,000 of the proceeds to finance, in part, the purchase of the stock of Auto Transit Company, and \$45,000 to pay for additional equipment.

Both Peerless Stages, Incorporated, and Auto Transit Company are engaged in operating auto stages for the transportation of passengers, baggage and express. In general, Peerless Stages, Incorporated, is operating between Oakland and San Jose, and intermediate points; Sunol and Newark; San Jose, Agnew and Alviso; San Jose and Santa Cruz via Los Gatos and Alma, and via Big Basin; and San Jose and

Campbell and Los Gatos. Auto Transit Company is operating between San Francisco and Santa Cruz via Los Gatos; Santa Cruz and Salinas and Watsonville; Castroville and Monterey; and Watsonville and Hollister.

The record shows that on May 3, 1927, Peerless Stages, Incorporated, and O. A. Moon, J. S. Nickols, C. L. Simonds and George H. Higgins, the owners of all the outstanding stock of Auto Transit Company, entered into an agreement whereby Peerless Stages, Incorporated, agreed to purchase, for \$150,000, the outstanding \$41,310 of stock of Auto Transit Company. Under the terms of the agreement, payment has been or will be made as follows:

Upon signing of the agreement.....	\$5,000 00	
Within fifteen days after signing of the Commission's order..	36,913 60	
		\$41,913 60
Balance as follows:		
To Geo. H. Higgins, in monthly installments of \$919.10....	\$33,087 60	
To O. A. Moon, in monthly installments of \$919.10.....	33,087 60	
To C. L. Simonds, in monthly installments of \$919.10....	33,087 60	
To J. S. Nickols, in monthly installments of \$326.80....	8,823 60	
		108,086 40
Total		\$150,000 00

The payments to the three largest stockholders, George H. Higgins, O. A. Moon and C. L. Simonds, are payable over a period of thirty-six months, and those to J. S. Nickols over a period of twenty-four months, deferred payments in all cases bearing interest at the rate of 7 per cent per annum. Under the agreement, Peerless Stages, Incorporated, has the right at any time to pay the whole of the remainder of the principal sum remaining unpaid, or any part thereof, in greater installments than those specified in the agreement and indicated herein.

The agreement further provides that when the total payments made by Peerless Stages, Incorporated, aggregate the sum of \$125,000 or more, the stock of Auto Transit Company shall be delivered to it upon the execution and issue of three promissory notes, one payable to George H. Higgins, one to O. A. Moon and one to C. L. Simonds, each in an amount equal to one-third of the then remaining unpaid balance of the principal and each bearing interest at the rate of 7 per cent per annum and payable in monthly installments of \$919.10. These notes will be accepted by the three individuals as full payment for all sums remaining due and unpaid.

In support of the request Joseph B. Held, president and general manager of Peerless Stages, Incorporated, testified that it was proposed to manage the Auto Transit Company line with the same set of executives now in control of the affairs of Peerless Stages, Incorporated, and that in his opinion the acquisition of the stock, as outlined herein, and the consolidation of the two lines under one joint management would

result in economies in operation in excess of \$14,000 a year. He testified further that in his opinion the transaction would be in the public interest in that on the portion of the routes where duplicate service is now given, namely, between Los Gatos and Santa Cruz, schedules can be arranged so as to give more frequent service than at present.

To finance in part the cost of acquiring the stock of Auto Transit Company, Peerless Stages, Incorporated, asks permission to issue and sell preferred stock. It appears that recently applicant has amended its articles of incorporation so as to provide for an authorized issue of \$1,000,000 of stock, consisting of 1,000,000 shares of the par value of \$1 each, divided into 500,000 shares of common stock and 500,000 shares of 8 per cent cumulative preferred stock redeemable on any dividend payment date at 110 per cent of par value. It proposes at this time to issue \$150,000 of the preferred stock, to sell it at not less than 80 per cent of the par value thereof and to use \$45,000 of the proceeds to pay for new equipment and \$75,000 to meet in part its obligations under its agreement with the stockholders of Auto Transit Company.

Applicant reports that it has made arrangements to purchase, for \$5,833.30, an 18-passenger Fageol safety coach, and, for \$27,166.80, three 29-passenger Fageol safety coaches, a total cost of \$33,000.10. In addition, the testimony herein indicates that within a few months another unit of equipment should be acquired for the Peerless Stages, Incorporated, routes and also one for the Auto Transit Company routes. The showing as to the expenditures of stock proceeds for new equipment, in excess of the \$33,000.10, was not definite, however, and the order herein will provide that no proceeds may be expended for this purpose, over and above the \$33,000.10, until authorized in supplemental orders.

In considering the request to use stock proceeds to finance in part the cost of the Auto Transit Company stock, we believe that reference should be made to the assets and liabilities of that company. Its last annual report to the Commission shows the assets and liabilities as of December 31, 1926, as follows:

<i>Assets.</i>	
Property and equipment-----	\$88,757 16
Cash -----	7,180 23
Accounts receivable-----	60 61
Special deposit-----	2,400 00
Total -----	\$98,398 00
<i>Liabilities.</i>	
Notes payable-----	\$ 3,500 00
Accounts payable-----	2,420 00
Reserve for taxes-----	4,457 65
Reserve for accrued depreciation-----	34,889 71
Subtotal -----	\$45,267 36

Net worth :

Capital stock	-----	\$41,310 00
Surplus	-----	11,820 64
Subtotal	-----	53,130 64
Total	-----	\$98,398 00

The Commission does not look with favor upon the issue of 8 per cent cumulative preferred stock at 80 per cent of its par value. The order herein will require that such stock be sold for not less than par. As to the use of the proceeds we believe that the company should be authorized to use not more than \$53,130 in payment for the stock of Auto Transit Company. Any payments made in excess of this amount must be obtained from the company's surplus or stockholders and charged to applicant's corporate surplus account.

The order sought by these consolidated applications represents steps preliminary to the absorption of Auto Transit Company by Peerless Stages, Incorporated, and their consideration can not well be divorced from the next logical step, which will be an application by Peerless Stages, Incorporated, to take over the property and rights of Auto Transit Company.

The most casual reading of the opinions and orders of this Commission shows that there has been going on of late a process of consolidation of auto transportation companies. Soon the state will be served by a few of these major companies. Gradually, and in the not far distant future, they will take their place as an essential part of the transportation system of the state and there will come the usual rate proceedings as with the larger and more matured utilities.

Here Peerless Stages, Incorporated, through the acquisition of stock of Auto Transit Company, is paying \$150,000 for the stock of a company whose balance sheet indicates a net worth of \$53,130.64. It is perfectly obvious that the difference between these sums represents a payment made for the so-called operative right or other intangible property of the Auto Transit Company.

"Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

If the Peerless Stages, Incorporated, pays \$150,000 for the stock of Auto Transit Company, \$96,870 of the purchase price should be paid out of the company's surplus which might otherwise be diverted to the stockholders in the form of dividends. If the stockholders desire to make such a contribution to the corporation that is their concern, but it is the concern of this Commission to see that the public patronizing the utility is not now or in the future called upon to pay this amount or interest upon it, directly or indirectly.

The order herein will require the Peerless Stages, Incorporated, to file with the Commission before the order becomes effective, a definite and unqualified waiver of any right to claim any value of this operative right, either directly or indirectly, as an element of good will, going concern value or other intangible value.

Moreover, the order will require the vendors of the stock to agree to look exclusively to the surplus of Peerless Stages, Incorporated, for the payment of the stipulated purchase price or to contributions by or assessments on stockholders of Peerless Stages, Incorporated. Under such a stipulation the vendors can not complain if the date of the final payment should be postponed until the normal and properly allowable earnings of Peerless Stages, Incorporated, amounted to enough to take care of the obligations.

ORDER.

Applications having been made to the Railroad Commission by Peerless Stages, Incorporated, for permission to acquire the stock of Auto Transit Company, to execute an agreement and to issue notes and stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the applications should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the stock and notes is reasonably required for the purposes specified herein;

It is hereby ordered, that Peerless Stages, Incorporated, be and it hereby is authorized to purchase the outstanding stock of Auto Transit Company and to enter into the agreement filed in Application No. 13808 and referred to in the foregoing opinion, providing for the payment of the sums in the amounts and in the manner indicated therein, provided that any payments for said stock in excess of \$53,130 must be charged to the surplus account of Peerless Stages, Incorporated, and provided further, that the payments required by said agreement are made in accordance with the provisions of this order.

It is hereby further ordered, that Peerless Stages, Incorporated, be and it hereby is authorized, upon the payment of approximately \$125,000 of the purchase price of the stock of Auto Transit Company, to execute three promissory notes, each in an amount equal to one-third

of the remaining unpaid balance of the principal amount, each note to be payable in monthly installments of \$919.10 with interest at the rate of 7 per cent per annum.

It is hereby further ordered, that Peerless Stages, Incorporated, be and it hereby is authorized to issue and sell, for cash, at not less than par, \$150,000 of its preferred stock and to use not exceeding \$53,130 of the proceeds to finance in part the cost of acquiring the stock of Auto Transit Company, \$33,000.10 of the proceeds to pay for the equipment listed in Exhibit No. 5 attached to Application No. 13837, and the remaining proceeds, when authorized to do so by the Commission, in supplemental orders, for additional equipment or other purposes as may be authorized.

It is hereby further ordered, that the authority herein granted to Peerless Stages, Incorporated, to acquire the stock of Auto Transit Company will not become effective until said Peerless Stages, Incorporated, has filed in satisfactory form a stipulation duly authorized by its board of directors, agreeing that it, its successors and assigns, will pay \$96,870 of the purchase price of the stock of Auto Transit Company out of surplus available for distribution as dividends to its stockholders or from contributions by or assessments on its stockholders; that none of said payments will be made from cash obtained by borrowing or offset by its reserve for accrued depreciation; that said payments when and as made will be charged to surplus and that no value for the operative rights of Auto Transit Company will ever be claimed in any proceeding before this Commission, or any court, involving rates.

It is hereby further ordered, that the authority herein granted to Peerless Stages, Incorporated, to acquire the stock of Auto Transit Company will not become effective until the vendors of said stock have filed with this Commission an agreement in satisfactory form wherein they agree for themselves, their successors and assigns, to look only to the surplus of Peerless Stages, Incorporated, or to contributions by or assessments on the stockholders of Peerless Stages, Incorporated, for the payment of the aforesaid \$96,870, and will not seek to enforce the payment of said sum out of any other funds or property of said Peerless Stages, Incorporated, and that they will accept notes if any are issued which on their face will refer to the above numbered decision so that purchasers thereof will take them with notice.

The authority herein granted is subject to the following conditions:

1. The authority herein granted to execute an agreement for the purchase of stock is for the purpose of this proceeding only, and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of

such agreement as to such other legal requirements to which said agreement may be subject.

2. The authority herein granted to issue stock shall become effective upon the date hereof, but the authority herein granted to enter into a contract calling for payments as indicated in the foregoing opinion shall become effective upon the payment of the fee prescribed by section 57 of the Public Utilities Act and the filing in satisfactory form of the stipulations referred to herein.

3. Under the authority herein granted no stock may be issued after June 30, 1928.

Dated at San Francisco, California, this tenth day of September, 1927.

DECISION No. 18783.

IN THE MATTER OF THE SUSPENSION BY THE COMMISSION ON ITS OWN MOTION OF REDUCED RATES ON CEMENT, PUBLISHED IN PACIFIC FREIGHT TARIFF BUREAU TARIFF No. 88-K, C. R. C. No. 390, IN SOUTHERN PACIFIC TARIFF No. 584-D, C. R. C. No. 2861, AND IN ATCHISON, TOPEKA AND SANTA FE TARIFF No. 9788-K, C. R. C. No. 561.

Case No. 2389.

Decided September 13, 1927.

COMMISSION'S INVESTIGATION—RATES—STEAM RAILROAD—CEMENT.—Rates suspended during Commission's investigation found not to be unreasonable or prejudicial to points in San Francisco Bay district. Assailed rates allowed to go into effect, and suspension order dismissed.

Platt Kent and *Berne Levy*, for Atchison, Topeka and Santa Fe Railway Company, Respondent.

J. E. Lyons, *H. W. Klein* and *A. Burton Mason*, for Southern Pacific Company and other Respondents not specifically represented.

N. E. Keller, *R. B. Mitchell*, and *Sanborn, Roehl and Smith*, by *H. A. Sanborn*, for Pacific Portland Cement Company and the Henry Cowell Lime and Cement Company.

Murray Bourne and *McCutchen*, *Olney*, *Mannon and Greene*, by *Allan P. Matthew* and *John O. Moran*, for Yosemite Portland Cement Corporation.

W. G. Higgins, for Santa Cruz Portland Cement Company.

BY THE COMMISSION.

OPINION.

By tariffs filed to become effective July 25, 1927, respondents proposed to establish from Merced on The Atchison, Topeka and Santa Fe Railway and from Merced Cement Plant on the Yosemite Valley Railroad Company, hereinafter referred to as Merced, a complete schedule of commodity rates applying to cement in car loads. Upon protest of certain interested manufacturers and shippers of cement who alleged that the rates proposed in the tariffs would unduly prefer the shippers at Merced and subject complainants to unreasonable prejudice and disadvantage, the tariffs were suspended for 120 days from July 15, 1927, the date of the order. The Yosemite Portland Cement Corpora-

tion filed a petition in intervention, alleging that it had recently constructed at Merced and was now operating a mill for the manufacture and production of cement and was engaged in the shipping, distributing and marketing of the manufactured product at points throughout the State of California.

A hearing was held before Examiner Geary at San Francisco August 10, 1927, and the case having been duly submitted is now ready for our opinion and order.

Prior to the publication of the suspended cement rates there have been no commodity rates from Merced. The cement manufactured and shipped from Merced is now for the first time coming into competition with the cement manufactured at Cowell, Cement, Redwood City, North Branch, Davenport and San Juan. The rates in effect from the mills located at Cement, Cowell and Davenport are practically those recommended by this Commission in its Decision No. 300, Case No. 232, decided October 25, 1912, with the wartime changes, and the rates from North Branch, San Juan and Redwood City, subsequently established, are on the same general basis.

The Merced rates published to become effective July 25th apply to the same destination points throughout California where rates from the competing cement plants are now in effect, and our order suspends only a limited number of the rates in the San Francisco Bay territory roughly outlined by Bay Point, Giant, Gateley and points between, Niles, San Jose, Grant, Newark, Mayfield, Redwood City, Colma, Rup and points between. We did not suspend the rate of 9 cents from Merced to San Francisco, Oakland and other tidewater points.

The tabulation below, taken from respondents' exhibits, gives the distances and the proposed rates from Merced, also the present rates from the competing cement plants located at North Branch, Davenport, San Juan, Cowell and Cement. Only representative destinations are shown.

From to	Merced Miles Rate	North Branch Miles Rate	San Juan Miles Rate	Davenport Miles Rate	Cement Cowell *Miles Rate
Port Costa	120 +12	119 12	116 11	114 11	23 (1)7 (2)4
Martinez	116 +11	115 11	113 11	110 11	26 (1)7 (2)4
Bay Point	109 +11	108 11	113 11	110 11	33 (1)7
San Jose	127 +11½	127 11½	49 9	47 9	90 9½
Mountain View	138 +11½	137 11½	60 9½	58 9½	90 9½
Los Altos	137 +11½	136 11½	68 9½	51 9½	90 9½
Redwood City	123 +11½	127 11½	71 9½	61 9½	79 9½
Colma	148 +11½	147 11½	90 8	81 8	62 8
Niles	110 +11	109 11	67 9½	65 9½	72 7½
Newark	116 +11	115 11	66 9½	62 9½	75 9½
Hayward	119 +11	118 11	76 9½	72 9½	64 7½

†Suspended rates.

*Cement mileage; Cowell mileage is slightly less.

(1) Rate from Cement.

(2) Rate from Cowell.

The rates from North Branch became effective June 5, 1926, and were established without protest from the competing cement mills. It is respondents' contention that all of the suspended rates from Merced were published with careful consideration to the rates from all other cement plants and are practically on the North Branch basis, this with a view of permitting all of the northern California cement mills to enter the San Francisco Bay territory and the other consuming markets on as near a parity of rates as distance, water competition and market competition would justify.

It will be noted from the preceding tabulation that the distance from Merced, North Branch, Davenport and San Juan to the points on the Port Costa line are practically the same. As illustrative, the distance to Port Costa from Merced is 120 miles, from North Branch 119 miles, from San Juan 116 miles, and from Davenport 114 miles, and the rate is 12 cents from Merced and North Branch and 11 cents from Davenport and San Juan. To points on the Coast Division of the Southern Pacific, San Jose to and including Colma, the distances from North Branch are the same as from Merced, and the rate of 11½ cents is blanketed over the entire territory of approximately 41 miles, and these rates are alleged to be depressed, responsive to the rates established into the San Francisco Bay region many years ago to meet the actual or potential water competition. To points on the Niles route the rate is 11 cents from both North Branch and Merced, the mileage being practically the same, and to the same points from Davenport and San Juan the rate is 9½ cents, the hauls being the same from both points but 50 miles shorter than from North Branch and Merced. It is also to be noted that the rates from Cement and Cowell are on a parity at most of the destination points and with but a few exceptions lower than from the other four shipping points.

Respondents particularly urged that it is the usual practice to maintain related rates from all cement plants in northern California, that the proposed rates from Merced are reasonably compensatory, are not preferential or discriminatory, and that they conform to the adjustments generally in effect between the plants in northern California. The entire record shows that the Merced rates are made to permit the manufacturers at that point to enter the consuming markets on practically the basis of the rates published from North Branch, which rates, as heretofore stated, became effective without protest June 5, 1926. Rates from producing mills to consuming markets may well be closely related, for the relationship is often of greater importance to the shipping and consuming public than the volume of the rate itself.

The contention that the proposed rates will result in undue prejudice to protestants is not proven by this record, for the new competition to be met from Merced, where the rates are under suspension, is no dif-

ferent from the competition existing at the present time except that one additional manufacturing plant has entered the field.

No testimony was adduced on behalf of the protestants, and their only participation at the hearing was in the cross-examination of respondents' witnesses.

We find that the suspended rates do not result in unreasonable prejudice and disadvantage, that they have been justified, and an order discontinuing this proceeding will be entered. Our conclusions herein are without prejudice to any different conclusion that may be reached in the two formal proceedings (Cases Nos. 2393 and 2396) now before the Commission, which proceedings call into question the adjustment of the cement rates in northern California.

ORDER.

It appearing that by order dated July 15, 1927, and as supplemented July 21, this Commission entered upon a hearing concerning the car-load rates applying to the transportation of cement, stated in tariffs enumerated and described in said orders, and ordered the operation of said tariffs to be suspended for 120 days from the date of the order;

It appearing further that a full investigation of the matters and things involved has been had, and that this Commission on the date hereof has made and filed its opinion containing its findings of fact and conclusions thereon, which said opinion is hereby referred to and made a part hereof, and has found that respondents have justified the tariffs under suspension;

It is hereby ordered, that the order heretofore entered in this proceeding suspending the operations of the rates in the said tariffs be and it is hereby vacated and set aside and that this proceeding be discontinued.

Dated at San Francisco, California, this thirteenth day of September, 1927.

DECISION No. 18787.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL THIRTY MILLION DOLLARS' FACE VALUE OF ITS REFUNDING MORTGAGE GOLD BONDS, SERIES OF FIVES, DUE 1952.

Application No. 14044.

Decided September 13, 1927.

SECURITIES—BONDS—To ISSUE AND SELL.—Applicant authorized to issue and sell \$30,000,000 of its refunding mortgage gold bonds, series of 5s, due 1952, at not less than 97 per cent of face value, plus accrued interest, and to use the proceeds from the sale thereof to redeem \$26,500,000 of refunding mortgage

bonds, series of 6s, and to reimburse its treasury for \$3,500,000 expended for additions and betterments.

Roy V. Reppy, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Southern California Edison Company asks permission to issue and sell at not less than 97 per cent of their face value plus accrued interest \$30,000,000 of its refunding mortgage gold bonds, series of 5s, due 1952, and to use the proceeds for the purposes herein-after stated. The company also asks permission to amortize over the life of the new bonds the unamortized bond discount and expense applicable to the \$26,500,000, series of 6s, due 1943.

It is of record that the company has called for redemption on October 1, 1927, at 105, its \$26,500,000, series of 6s, due 1943. The aggregate cost of redeeming the bonds will be \$27,825,000. Of the new bonds which the company intends to issue, \$26,500,000 will be certified in substitution of the bonds it will pay on October 1, 1927, and \$3,500,000 against additions and betterments. In this connection the testimony, Exhibit No. 4, shows that up to the end of July, 1927, it had expended for capital purposes the sum of \$3,554,995.28 which has not been paid through the issue of stock or bonds. The proceeds obtained from the sale of the \$30,000,000 of bonds will be used to pay the \$26,500,000 of series of 6s, due 1943, and reimburse the company's treasury because of income expended for additions and betterments.

Upon the completion of the proposed financing the company will have outstanding \$135,059,700 of bonds, consisting of the following:

Refunding mortgage gold bonds:

Series of 5s, due 1951	\$55,000,000 00	
Series of 5s, due 1952	30,000,000 00	
		\$85,000,000 00

General and refunding mortgage bonds:

5½s, due 1944	\$10,225,000 00	
5s, due 1944	10,000,000 00	
5s, due 1939	13,360,000 00	
		\$33,585,000 00
Pacific Light and Power Corp., 5s, due 1951		5,796,000 00
Pacific Light and Power Co., 5s, due 1942		5,759,000 00
Mentone Power Co., 5s, due 1931		37,000 00
Mt. Whitney Power and Elec. Co., 6s, due 1939		3,218,000 00
Santa Barbara Gas and Elec. Co., 5s, due 1941		690,700 00
Debentures, 7s, due 1928		974,000 00
Total		\$135,059,700 00

The bonds applicant proposes to issue will be secured by its refunding mortgage dated as of October 1, 1923. The new bonds will be dated September 1, 1927, mature September 1, 1952, bear interest at the rate of 5 per cent per annum and be called at a premium of 5 per cent for the first fifteen years after date and thereafter at a premium of one-half of one per cent less each year of the remaining life. The company

asks permission to sell the bonds at 97 and accrued interest or on a basis of 5.22 per cent.

Applicant estimates that the substitution of the new bonds for the \$26,500,000 of bonds, series of 6s, now outstanding, which are secured by the same mortgage, will result in savings in annual fixed charges of \$96,226.64. Considering interest only the annual savings will amount to \$155,700.

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue \$30,000,000 of bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, as follows:

1. Southern California Edison Company may issue and sell, on or before December 31, 1927, at not less than 97 per cent of face value plus accrued interest, \$30,000,000 of its refunding mortgage gold bonds, series of 5s, due 1952.

2. Southern California Edison Company may use the proceeds, other than accrued interest, obtained from the sale of \$26,500,000 of said bonds to pay in part the cost of redeeming \$26,500,000 of refunding mortgage gold bonds, series of 6s, due 1951.

3. Southern California Edison Company may use the proceeds, other than accrued interest, obtained from the sale of \$3,500,000 of said bonds, to reimburse its treasury on account of moneys expended for the construction, completion, extension and improvements to its facilities referred to in Exhibit No. 4 filed in this proceeding.

4. The accrued interest obtained from the sale of the \$30,000,000 of bonds herein authorized may be used for general corporate purposes.

5. Decision No. 11353, dated December 13, 1922, is hereby modified so as to permit Southern California Edison Company to amortize the remaining unamortized discount on the \$26,500,000 of bonds, series of 6s, to be refunded, and the premium which must be paid upon the redemption of said bonds, on or before September 1, 1952.

6. Southern California Edison Company shall keep such record of the issue of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority herein granted will become effective when applicant

has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$2,250.

Dated at San Francisco, California, this thirteenth day of September, 1927.

DECISION No. 18788.

IN THE MATTER OF THE APPLICATION OF EDW. H. WHITE FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE VESSELS FOR THE TRANSPORTATION OF PROPERTY FOR COMPENSATION BETWEEN POINTS UPON THE INLAND WATERS OF THE STATE OF CALIFORNIA.

Application No. 13879.

Decided September 13, 1927.

CERTIFICATE—CARRIER BY WATER—INLAND WATERS.—Certificate granted applicant to operate freight vessels between points on Sacramento and San Joaquin, Old and Middle rivers, and points on Suisun, San Pablo and San Francisco bays, and between points on those bays.

Fred L. Dreher and J. E. McClellan, for Applicant.

Sanborn and Rochl and DeLancey C. Smith, by *H. H. Sanborn*, for California Transportation Company, Bay Cities Transportation Company, Erikson Navigation Company, and Sacramento Navigation Company.

Gwyn H. Baker, for Bay and River Boat Owners' Association, Berkeley Transportation Company, E. V. Rideout Company and Richmond Navigation and Improvement Company.

BY THE COMMISSION.

OPINION.

The applicant herein requests permission to operate vessels between all points on the Sacramento River and its tributaries on the one hand, and Suisun, San Pablo and San Francisco bays on the other hand, and between all points on the San Joaquin, Mokelumne, Old and Middle rivers and their tributaries on the one hand, and all points on Suisun, San Pablo and San Francisco bays on the other hand, and between all points on the Suisun and San Pablo bays on the one hand, and San Francisco Bay on the other hand.

A public hearing was held before Examiner Vaughan at San Francisco, the matter was duly submitted and is now ready for decision.

It is clearly shown from the record that the proposed service is essential for the transportation of certain of the agricultural products of the San Joaquin and Sacramento valleys to market at San Francisco. The applicant proposes to reach points not served by any other carrier by vessel, particularly the points located on shallow waters which applicant can reach by reason of the fact that the vessels to be used by him are constructed for shallow water operations.

At the outset of the hearing, California Transportation Company, Bay Cities Transportation Company, Erikson Navigation Company, Sacramento Navigation Company, Bay and River Boat Owners' Asso-

iation, Berkeley Transportation Company, E. V. Rideout Company and Richmond Navigation and Improvement Company appeared in protest of the application, but later withdrew such protests and, through their respective counsel, recommended that the application be granted.

It appears to us that the interest of the public will best be served by the granting of the application. An order will be entered accordingly.

ORDER.

Application as above named and numbered having been filed with this Commission, a public hearing having been had thereon, the matter having been duly submitted and being now ready for decision:

It is hereby found as a fact that public convenience and necessity require the operation by Edw. H. White of vessels for the transportation of property for compensation upon the inland waters of the State of California as follows:

Between all points on the Sacramento River and its tributaries on the one hand, and Suisun, San Pablo and San Francisco bays on the other hand, and between all points on the San Joaquin, Mokelumne, Old and Middle rivers and their tributaries on the one hand, and all points on Suisun, San Pablo and San Francisco bays on the other hand, and between all points on the Suisun and San Pablo bays on the one hand, and San Francisco Bay on the other hand.

It is hereby ordered, that a certificate of public convenience and necessity covering the points as above named be and the same is hereby granted to Edw. H. White, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten days from the date hereof.

2. Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein marked "Exhibit B," or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof. That applicant will not transport commodities other than those named in his tariff of rates attached to his application and marked "Exhibit B."

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this thirteenth day of September, 1927.

DECISION No. 18789.

IN THE MATTER OF THE APPLICATION OF HOME TELEPHONE COMPANY OF COVINA, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF TWENTY-FIVE THOUSAND DOLLARS PAR VALUE OF ITS GENERAL REFUNDING SIX PER CENT BONDS, SEVENTY THOUSAND DOLLARS PAR VALUE OF ITS PREFERRED CAPITAL STOCK AND FIFTY-FIVE THOUSAND DOLLARS PAR VALUE OF ITS COMMON STOCK.

Application No. 13157.

Decided September 14, 1927.

SECURITIES—To ISSUE AND SELL.—Applicant authorized to sell at not less than 96 per cent of face value, plus accrued interest, \$15,000 of general refunding bonds; \$25,000 of preferred stock at not less than par; \$20,000 of common stock at not less than 105, the issue of which was authorized by Decision No. 17543.

Loyd Wright, for Applicant.

BY THE COMMISSION.

FIFTH SUPPLEMENTAL OPINION.

In a supplemental petition filed in the above entitled matter on August 8, 1927, Home Telephone Company of Covina asks the Railroad Commission to make a further order in this proceeding permitting it to sell at this time \$15,000 of the general refunding 6 per cent bonds, \$25,000 of the 7 per cent preferred stock and \$20,000 of the common stock which the Commission, by Decision No. 17543, dated October 29, 1926, authorized it to issue.

By Decision No. 17543 the Commission authorized the company to issue \$25,000 of bonds, \$70,000 of preferred stock and \$55,000 of common stock. The order permitted the company to sell, at that time, \$10,000 of the bonds, \$20,000 of the preferred stock and \$20,000 of the common stock but provided that the remainder of the securities authorized to be issued might be sold only when the Commission had fixed the prices at which they might be disposed of and authorized the use of the proceeds.

In now seeking to sell additional stock and bonds the company asks permission to sell the bonds at 96 per cent of face value plus accrued interest, less a selling expense of not to exceed 3.5 per cent of face value; the preferred stock at par, less a selling expense of not to exceed 5 per cent of the par value; and the common stock at 105, less a selling expense of not to exceed 5 per cent of the par value. It proposes to use the proceeds, amounting to \$57,625, for the following purposes:

To reimburse operating revenues.....	\$19,686 26
To construct a toll circuit to San Gabriel Canyon.....	16,000 00
To pay North Electric Manufacturing Company invoice, No. 6066.....	6,500 00
To pay John A. Roebling Sons' Company invoice, No. 1092.....	5,071 63
To pay John A. Roebling Sons' Company invoice, No. 1093.....	4,698 39

To pay for additions to plant.....	\$5,068 72
To pay additional stock selling expense.....	600 00
Total	\$57,625 00

It appears that the company has expended for additions and betterments to its plant and properties the sum of \$19,686.26 which has not been paid or provided by the issue of stock or bonds. These expenditures are described in some detail in a schedule filed with the Commission and include the following:

Station equipment.....	\$3,277 31
Pole lines.....	4,448 07
Aerial cable.....	3,525 62
Aerial wire.....	5,611 48
Underground conduit	978 64
Underground cable.....	1,791 75
Toll pole lines.....	53 39
Total	\$19,686 26

Although the company asks permission to use these proceeds to reimburse its operating revenue, it seems that the expenditures were made rather with borrowed moneys and it appears to be the company's intention to use the \$19,686.26 to pay in part outstanding notes, which are reported at \$25,000. The order herein, accordingly, will so direct.

The second item in the tabulation is a proposed expenditure of \$16,000 for the purpose of building a five-circuit toll line to the forks in the San Gabriel Canyon. There is, however, a toll line at present in San Gabriel Canyon owned and operated by the estate of R. M. Follows under the firm name and style of Follows Toll Line. Applicant has made arrangements to purchase the Follows Toll Line and to increase the capacity of its facilities through the expenditure of the \$16,000 as proposed herein. To this end it recently has filed an application, jointly with the estate of R. M. Follows, for an order authorizing the transfer of the existing system. Until this application (No. 13951) is granted, we do not believe that we should authorize the use of stock and bond proceeds to pay for the construction of the toll circuit. This portion of the supplemental petition therefore will be held in abeyance pending the determination of Application No. 13951.

It is of record that the three invoices hereinafter mentioned have been paid and that they represent expenditures for additional properties as follows:

Two 200 line bays primary and first selection, each equipped with 50 lines and 6 trunks, 1 for the Glendora office and 1 for the Azusa office.....	\$6,500 00
12,500 feet of 15 pair telephone cable and 20,000 feet of 50 pair cable.....	5,071 63
5,000 feet of 200 pair telephone cable and 6,000 feet of 100 pair cable.....	4,698 39

Some of the payments were made through borrowed funds and some through the use of earnings.

The proposed expenditures of \$5,068.72 are for additions to the lines to the Covina, Azusa, Glendora, Puente and Baldwin Park central offices, as set forth in the testimony in this matter.

The former order which authorized the sale of the \$20,000 of preferred stock and \$20,000 of common stock permitted the use of 3.5 per cent of the par value of stock sold to pay selling expenses. The company now alleges that its board of directors authorized the payment of 5 per cent of the proceeds from the sale of stock for these purposes and an agreement accordingly was made on that basis. It therefore asks permission to make an additional payment of 1.5 per cent, amounting to \$600, for the \$40,000 of stock heretofore sold and pay 5 per cent commissions on the stock it now desires to sell. This request will not be granted. The order herein will allow the company to use an amount equal to 3.5 per cent of the par value of stock and bonds sold to pay commissions and other expenses incident to the sale of the stock and bonds.

FIRST SUPPLEMENTAL ORDER.

A supplemental petition having been filed with the Railroad Commission by Home Telephone Company of Covina asking permission to sell additional amounts of the stock and bonds authorized to be issued by Decision No. 17543, a further hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the supplemental petition should be granted only as provided herein and subject to the conditions set forth herein, and that the expenditures herein authorized are reasonably required for the purposes specified herein and are not, in whole or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that Home Telephone Company of Covina be and it hereby is authorized to sell at not less than 96 per cent of face value, plus accrued interest, \$15,000 of the general refunding bonds; at not less than par, \$25,000 of the preferred stock; and at not less than 105, \$20,000 of the common stock, the issue of which heretofore was authorized by Decision No. 17543, dated October 29, 1926.

It is hereby further ordered, that Home Telephone Company of Covina be and it hereby is authorized to use an amount of the proceeds from the sale of the bonds and stock herein authorized to be sold, not exceeding 3.5 per cent of the par value thereof, to pay commissions and expenses incident to the sale; to use the accrued interest from the sale of the bonds for general corporate purposes; and to use \$41,025 of the remainder of the proceeds to pay outstanding notes and reimburse its treasury on account of earnings expended for additions and betterments. The remaining proceeds and such portion of the \$41,025 not needed for the foregoing purposes may be used only when authorized by the Commission in subsequent orders.

It is hereby further ordered, that the order in Decision No. 17543, dated October 29, 1926, as amended, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this fourteenth day of September, 1927.

DECISION No. 18792.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, THE WESTERN PACIFIC RAILROAD COMPANY, LOS ANGELES AND SALT LAKE RAILROAD COMPANY, PACIFIC ELECTRIC RAILWAY COMPANY, SAN DIEGO AND ARIZONA RAILWAY COMPANY, SUNSET RAILWAY COMPANY AND NORTHWESTERN PACIFIC RAILROAD COMPANY, RESPECTIVELY, FOR ORDER AUTHORIZING PUBLICATION IN THEIR INDIVIDUAL TARIFFS OF RULE SPECIFYING CHARGE FOR CHECKING INTRAYARD OR INTRAYARD CARLOAD SHIPMENTS.

Application No. 13787.

Decided September 14, 1927.

RATES—STEAM RAILROAD—INTRAYARD—INTERYARD SHIPMENTS—CHECKING CONTENTS.—Charge of 10 cents per ton for checking contents into or out of cars authorized.

*A. L. Whittle, for Applicant Southern Pacific Company.
E. E. Bennett, for Applicant Los Angeles and Salt Lake Railroad Company.
Berne Levy, for Applicant The Atchison, Topeka and Santa Fe Railway Company.
J. F. Bon, for Applicant Western Pacific Railroad Company.
A. Larsson, for Union Lumber Company, Pope & Talbot, California Redwood Association, Chicago Lumber Company of Washington, C. R. McCormick Lumber Company, Charles Nelson Lumber Company et al.
W. J. Lane, for Guggenheimer & Company.*

BY THE COMMISSION.

OPINION.

This is an application under section 63 of the Public Utilities Act to establish in applicants' terminal tariffs the following rule:

For freight, carloads, on which only a switch service is performed, this Company will, on request, check contents of car and issue bill of lading in accordance with such check, subject to the following charges:

- (a) Check contents of car at loading point and issue bill of lading in accordance with such check, at a charge of 10 cents per ton on 2000 lbs., or fraction thereof, applied to the weight of the shipment.
- (b) Check contents of car at unloading point and issue delivery receipt in accordance with such check at a charge of 10 cents per ton of 2000 lbs., or fraction thereof, applied to the weight of the shipment.

At the hearing the application was amended to include the Sunset Railway Company as a party applicant.

Notices of hearing in this matter were sent to shippers, consignees and traffic departments of chambers of commerce of numerous cities, and a public hearing was held before Examiner Geary on August 5,

1927, but no objections were made to the proposed rule. The matter having been duly heard and submitted is now ready for our opinion and order.

The applicants' present tariffs do not provide a rule for California intrastate traffic as now proposed, but such rule is in effect on interstate traffic. The interstate rate for checking the contents into or out of a car when only a switching service is performed was first established at 20 cents per ton, effective May 1, 1926, and subsequently reduced to 10 cents per ton, effective May 25, 1927, and applicants aver no complaint has been made to them regarding this charge.

The 10 cents per ton as provided in the proposed rule is not to apply on line haul traffic but only on switching movements and only when the checking service is demanded by the consignor or consignee. The switching charges at stations in California vary from approximately 34 cents per ton, minimum charge \$7.20 per car, to 68 cents per ton, minimum charge \$13.50 per car, and when first established gave no consideration and did not include any cost for the checking of contents into or out of cars. It is claimed such switching charges are not of sufficient volume to warrant applicants absorbing the costs of rendering this checking service.

Until recently the universal custom has been, where cars are transferred between points in terminal yards and not going into line haul service, to accomplish the movement on a switching order as shipper's load and count (S. L. & C.) without the use of a bill of lading. The recent practice of demanding a carrier's check and a clean bill of lading is infrequently employed, almost entirely in interstate traffic and seldom at any point except Los Angeles and San Francisco.

Investigation of the cost of rendering this service was made for a representative period, October 28 to November 15, 1926, at the stations of San Francisco, Los Angeles and Oakland, and resulted in an average of approximately $7\frac{1}{2}$ cents per ton based upon the employee's wages while engaged exclusively in checking the contents of the car. This cost does not include overhead expenses of any nature such as stationery supplies, supervisory or accounting, and it is of record that applicants are not proposing the 10 cents per ton charge with any anticipation of profit but only to obtain an amount necessary to cover actual out-of-pocket costs in rendering the new service not now included in the switching rates.

After full consideration of all the facts of record we are of the opinion and so find that the rule applicants propose to establish is justified and that a charge of 10 cents per ton for checking contents into or out of cars upon request is not unreasonable.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusion contained in the opinion which immediately precedes this order;

It is hereby ordered, that the Southern Pacific Company, The Atchison, Topeka and Santa Fe Railway Company, The Western Pacific Railroad Company, Los Angeles and Salt Lake Railroad Company, Pacific Electric Railway Company, San Diego and Arizona Railway Company, Sunset Railway Company and Northwestern Pacific Railroad Company be and they are hereby authorized to establish and publish a rule as specifically set forth in the opinion immediately preceding this order, which is hereby referred to and by reference made a part hereof.

Dated at San Francisco, California, this fourteenth day of September, 1927.

DECISION No. 18793.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, TO WITHDRAW AND CANCEL ELECTRIC RATE SCHEDULES APPLICABLE TO SERVICE IN TERRITORY FORMERLY SUPPLIED BY BELL ELECTRIC COMPANY AND DESIGNATED AS SCHEDULES L-8, L-9, L-10, C-5 AND P-12, ETC.

Application No. 13798.

Decided September 14, 1927.

RATES—ELECTRIC UTILITY—TO CANCEL—TO ESTABLISH.—Applicant authorized to cancel rates of Bell Electric Company in territory formerly served by the latter, and to establish its own rates therein.

C. P. Outten, by *R. W. Du Val*, for Applicant.

A. Winders, in *propria persona*, Protestant.

BY THE COMMISSION.

OPINION.

Pacific Gas and Electric Company by its application herein requests authority of the Railroad Commission to withdraw and cancel rate schedules applicable to electric service in territory formerly supplied by Bell Electric Company, and to make effective in lieu thereof the filed schedules of Pacific Gas and Electric Company generally applicable to electric service in Placer County.

A public hearing was held before Examiner Handford on August 9, 1927, in the city of Auburn, at which time testimony was introduced and the matter duly submitted for decision. At the hearing the application was amended to include authority for placing in effect rules and regulations generally applying throughout territory served by Pacific Gas and Electric Company.

It appears from the testimony that the proposed change in rates in this territory will generally result in a decrease, although in certain individual cases the proposed rates will result in higher charges than under the rates now existing under the Bell schedules. It also appears that Bell Electric Company has in the past encouraged the installation of three-phase motors of less than five horsepower, which is contrary to the practice of the Pacific Gas and Electric Company. Should Pacific Gas and Electric Company apply its rates and rules governing this type of service certain consumers would suffer an unduly increased rate. Applicant agrees that in billing such consumers the minimum charges for present installations of less than five horsepower will be billed in accordance with name plate ratings except that three-phase service will, in any event, take a minimum of not less than \$2 per month.

Although applicant, upon instructions from the Commission, notified all consumers of the hearing there was but one appearance in protest, such protestant using the lighting schedule at the minimum rate and whose service in future, under the revised minimum rate, would be subject to a slightly increased charge.

It is desirable that electric rate schedules of Pacific Gas and Electric Company shall apply, in so far as is practicable, uniformly over that system. The further continuation of existing rates in Auburn and adjacent territory is in effect a discrimination against the majority of consumers involved.

From the record herein we are of the opinion that this application is in the public interest, and that same should be granted.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to withdraw and cancel electric rate schedules applicable to service in territory formerly supplied by Bell Electric Company, a public hearing having been held, the matter having been duly submitted and being now ready for decision;

It is hereby ordered, that

1. Pacific Gas and Electric Company be and it hereby is authorized to withdraw and cancel, effective September 16, 1927, its present electric rate schedules applicable to service in the territory formerly supplied by Bell Electric Company, *i. e.*, schedules L-8, L-9, L-10, C-5 and P-12.

2. Pacific Gas and Electric Company be and it hereby is authorized to charge and collect in the territory formerly supplied by Bell Electric Company those schedules of rates generally applicable to electric service in Placer County, same to be effective for all meter readings taken on and after September 16, 1927.

3. Pacific Gas and Electric Company be and it hereby is authorized to make applicable in territory formerly supplied by Bell Electric Com-

pany rules and regulations generally applying over its system except that deviation relative to three-phase service will be made for certain present consumers as indicated in the opinion preceding this order.

4. For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourteenth day of September, 1927.

DECISION No. 18794.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA OREGON POWER COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING IT TO MERGE OR CONSOLIDATE ITS SYSTEM WITH THAT OF SUTHERLIN LIGHT AND POWER COMPANY, A CORPORATION.

Application No. 13954.

Decided September 14, 1927.

TRANSFER—ELECTRIC UTILITY—To PURCHASE.—Applicant authorized to purchase properties of Sutherlin Light and Power Company for the sum of \$12,000 and to merge same with applicant's system.

Brobeck, Phleger and Harrison, for Applicant.

BY THE COMMISSION.

OPINION AND ORDER.

Application has been made to the Railroad Commission for an order authorizing The California Oregon Power Company to purchase, for \$12,000, the properties of Sutherlin Light and Power Company, and to merge or consolidate its plants or system with that to be purchased from Sutherlin Light and Power Company.

Section 51 (a) of the Public Utilities Act of the State of California reads, in part, as follows:

No public utility shall henceforth, * * * by any means whatsoever, directly or indirectly, merge or consolidate its railroad, street railroad, line, plant or system, or other property or franchises or permits or any part thereof, with any other public utility, without first having secured from the Commission an order authorizing it so to do.

The application shows that The California Oregon Power Company is engaged in the electric and water public utility business in California and in Oregon and Sutherlin Light and Power Company in the electric utility business in and about the city of Sutherlin, Douglas County, Oregon. Although all the properties of the latter are located within the state of Oregon it seems that because of the provision of the Public Utilities Act applicant has elected to file this application with this Commission for approval of the transaction.

The Commission has given consideration to the application and is of the opinion that this is a matter in which a public hearing is not neces-

sary and that the application should be granted, as herein provided; therefore,

It is hereby ordered, that The California Oregon Power Company be and it hereby is authorized to purchase, for \$12,000, the properties of Sutherlin Light and Power Company and to merge and consolidate such properties with its plant and system, such authority to become effective upon the date hereof.

Dated at San Francisco, California, this fourteenth day of September, 1927.

DECISION No. 18795.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA TO APPLY ITS REGULAR SCHEDULE OF ELECTRIC RATES TO THE CONSUMERS FORMERLY SERVED BY A. SORENSEN.

Application No. 13960.

Decided September 14, 1927.

RATES—ELECTRIC UTILITY—To ESTABLISH.—Application granted.

BY THE COMMISSION.

OPINION.

Great Western Power Company of California asks authority to place its rates in effect for electric energy furnished to consumers formerly served by A. Sorensen.

In its Decision No. 18561, Application No. 13858, the Commission authorized the transfer to Great Western Power Company of certain electric distribution properties then owned by A. Sorensen serving approximately 150 consumers in the city of Oakland. The Commission is aware of the conditions under which service has been rendered from this particular system and of what can reasonably be expected since the property has become a part of the Great Western system.

At the present time the consumers here involved are, as a group, paying slightly less than they would pay under Great Western Power Company's rates. These consumers will, however, receive service equivalent to that generally rendered in Oakland under rate schedules which, with this exception, apply uniformly in Oakland.

Sound public policy requires that the rate schedules of Great Western Power Company be applied uniformly to all consumers in Oakland receiving like service.

The Commission is of the opinion that the application should be granted in order that discrimination be avoided, and that a public hearing in this matter is not necessary.

ORDER.

Great Western Power Company of California having applied for authority to place its rates in effect for electric service to consumers formerly supplied by A. Sorensen and good cause therefor appearing;

It is hereby ordered, that Great Western Power Company of California be and it is hereby authorized to charge and collect in territory formerly supplied by A. Sorensen, effective for all regular meter readings taken on and after September 15, 1927, its schedules of rates generally applicable to electric service rendered by applicant in the city of Oakland.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourteenth day of September, 1927.

DECISION No. 18796.

IN THE MATTER OF THE APPLICATION OF BAILEY'S PALOMAR MOUNTAIN STAGE AND TRUCK LINE FOR AN ORDER INCREASING FREIGHT RATES.

Application No. 13969.

Decided September 14, 1927.

RATES—AUTO CARRIER—To INCREASE.—Application granted.

BY THE COMMISSION.

OPINION.

This is an application filed by Milton Bailey, an individual operating an auto stage and truck line for the transportation of freight and passengers between San Diego and Palomar Mountain points under the fictitious name of Bailey's Palomar Mountain Stage and Truck Line, seeking authority to establish and maintain for the transportation of property a first-class rate of \$1.50 per 100 pounds and a second-class rate of \$1 per 100 pounds. Applicant intends to assess the first-class rate on perishable commodities and bulky freight and the second-class rate on other commodities, except that household goods not crated and other merchandise unusually bulky weighing less than 10 pounds per cubic foot will be assessed double the first-class rate.

It is set forth in the petition that the present rates are insufficient to pay the actual out-of-pocket cost of operation.

Applicant's operative rights granted in Application No. 11443, Decision No. 16736, extend from San Diego to Palomar post office via El Cajon, Ramona, Santa Ysabel and Morettis, subject to certain restrictions as to local service. The operations are conducted on a weekly schedule during the season extending from May 15th to September 15th

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of each year, the service being rendered primarily to serve the resort sections in the Palomar Mountain region.

The present rate on freight between San Diego and Palomar Mountain points is 90 cents per 100 pounds, minimum charge 50 cents, and applies on all commodities regardless of classification.

According to applicant's annual report for 1926 the total operating revenue received from all operations was \$1,211.02 and the operating expenses were \$2,012.14, resulting in an operating loss of \$801.12. During this period the operating expenses did not include any compensation for salaries, and only \$51 was charged for depreciation on equipment costing \$2,550.

Under the proposed rates it is estimated that the monthly increase in revenue will be approximately \$82, or for the seasonal operation of four months an increase of about \$328.

Accompanying the application was a petition signed by approximately 75 per cent of the shippers utilizing applicant's present service, in which they have approved the rate proposed.

Under the circumstances we are of the opinion that this is a matter that does not require a formal hearing, that applicant should be authorized to establish the proposed rates for the transportation of freight as set forth in the petition, and that the application should be granted.

ORDER.

This application having been submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that applicant Milton Bailey, an individual operating an auto stage and truck line under the fictitious name of Bailey's Palomar Mountain Stage and Truck Line, be and he is hereby authorized to publish and file on ten days' notice to the Commission and to the public the rates for the transportation of freight between San Diego and Palomar Mountain points as specifically set forth in the application.

Dated at San Francisco, California, this fourteenth day of September, 1927.

DECISION No. 18797.

IN THE MATTER OF THE APPLICATION OF HAZEL GOLD MINING COMPANY, A CORPORATION, AND PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING THE FORMER TO SELL AND CONVEY AND THE LATTER TO PURCHASE AND ACQUIRE THE PROPERTIES REFERRED TO IN THIS PETITION.

Application No. 14007.

Decided September 14, 1927.

TRANSFER—ELECTRIC UTILITY—To SELL.—Application granted.

BY THE COMMISSION.

OPINION.

This is an application of the Hazel Gold Mining Company, a corporation, and Pacific Gas and Electric Company, a corporation, asking the Commission to make its order authorizing the former to sell and the latter to purchase a certain electrical distribution system in Shasta County, in accordance with an agreement entered into by and between applicants under date of July 30, 1927, and for an order authorizing Hazel Gold Mining Company to discontinue electric service in the territory which it now supplies. A copy of the agreement above mentioned has been filed in this proceeding as Exhibit "A."

Hazel Gold Mining Company has, in the past, conducted extensive mining operations at French Gulch, Shasta County, and the operation of the electrical distribution system herein involved has been incidental to such mining operations. Approximately 50 consumers are now receiving service. Pacific Gas and Electric Company has agreed to pay \$200 for these properties. We believe that the transfer of the properties is in the interest of the public.

ORDER.

Application having been made to the Railroad Commission of the State of California for an order authorizing the transfer of the electrical properties referred to in the foregoing opinion and for an order authorizing Hazel Gold Mining Company to discontinue electric service in the territory which it now supplies, and the Railroad Commission being of the opinion that a public hearing is not necessary in this matter and that the application should be granted as herein provided; therefore,

It is hereby ordered, that Hazel Gold Mining Company be and it is hereby authorized to sell and transfer to Pacific Gas and Electric Company the properties to which reference is made in the foregoing opinion and which are more particularly described in Exhibit "A" which has been filed in this proceeding, provided that the consideration being paid by Pacific Gas and Electric Company will not be urged before this Commission as representing the value of said properties for any purpose other than the transfer herein authorized.

It is hereby further ordered, that within thirty days after the transfer of the property, the purchaser shall file with this Commission a certified copy of the deed or other instrument under which it acquires and holds title to said properties and that within ninety days after the date hereof,

there shall be filed with the Commission the book entries by which the purchaser proposes to record the transaction.

It is hereby further ordered, that Hazel Gold Mining Company be and it is hereby authorized to cease furnishing and supplying electric service in the territory which it now supplies, such authority to become effective upon the day it transfers its properties to Pacific Gas and Electric Company.

It is hereby further ordered, that the authority herein granted to transfer properties shall become effective on the date hereof.

Dated at San Francisco, California, this fourteenth day of September, 1927.

DECISION No. 18800.

IN THE MATTER OF THE SUSPENSION BY THE COMMISSION ON ITS OWN MOTION OF RULE 85-A OF PACIFIC FREIGHT TARIFF BUREAU EXCEPTION SHEET 1-K, C. R. C. 384.

Case No. 2350.

Decided September 14, 1927.

RATES—STEAM RAILROAD—LONG AND BULKY ARTICLES.—Respondents not having justified Rule 85-A, the Commission directs them to cancel the same without prejudice to filing a new rule consistent with the Commission's findings.

A. L. Whittle, Berne Levy, H. W. Klein, J. F. Bon and H. C. Bush, for F. W. Gompf and all carriers parties to the exception sheet.

E. W. Hollingsworth, R. T. Boyd and Bishop and Bahler, for California Manufacturers' Association, Western Pipe and Steel Company, Soule Steel Company, Gunn, Carle and Company, Pacific Coast Steel Company, W. S. Wetenhall and Company, Moore Dry Dock Company and California Corrugated Culvert Company.

Scth Mann, for San Francisco Chamber of Commerce.

W. C. Hubner, for A. M. Castle and Company.

T. E. Banning, for California Development Association.

D. K. Donelson, for Pioneer Rubber Mills.

G. J. Olsen, for Dunham, Carrigan and Hayden Company.

H. H. Hoffman, for Baker, Hamilton and Pacific Company.

C. A. Deutschel, for Sacramento Chamber of Commerce.

E. G. Wilcox, for Oakland Chamber of Commerce.

BY THE COMMISSION.

OPINION.

By the publication of Rule 85-A in Supplement No. 7 to Pacific Freight Tariff Bureau Exception Sheet 1-K, C. R. C. 384, F. W. Gompf, agent, made to become effective April 14, 1927, respondents propose certain changes alleged to result in both increases and reductions in the rules and ratings covering shipments of long and bulky articles loaded on open cars and on articles of the same description loaded in closed cars by the use of, or through, the end window thereof.

Upon complaint of various chambers of commerce and shippers and receivers of freight the effective date of Rule 85-A was suspended by

the Commission until August 14, 1927, and was further voluntarily suspended by respondents until October 15, 1927.

A public hearing was held before Examiner Geary at San Francisco August 4, 1927, and the case having been duly submitted and briefs filed is now ready for our opinion and order.

The publication of the suspended rule was intended to supersede Rule 85, shown on page 15 of Exception Sheet 1-K, C. R. C. 384. The latter rule, in effect on California intrastate traffic only, provides a minimum charge based on 5000 pounds at the first-class rate for shipments consisting of long or bulky articles loaded on open cars, and a charge based on actual weight for shipments of the same description which are, or could be, loaded in a 36-foot box or stock car by the use of, or through, the end window. Rule 85 is an exception to and provides lower charges on, California traffic than do sections 2 and 3 of Rule 29 of the Western Classification No. 59, C. R. C. 347, the Western Classification rule providing for long or bulky articles loaded on open cars a minimum charge based on 7500 pounds at the first-class rate and on articles loaded in 36-foot closed cars by the use of the end window a minimum charge based on 4000 pounds at the first-class rate.

Respondents maintain the publication of Rule 85-A is primarily to clarify the present rule, which they allege is now subject to misinterpretation. They claim the changes contemplated are threefold: first, to provide that the minimum charges on shipments loaded on open cars *at carriers' convenience* shall be the same as that applicable had it been possible to load in a closed car; second, to restrict the size of end windows utilized in loading long and bulky articles in 36-foot cars to maximum dimensions of 2 feet 4 inches wide by 3 feet 2 inches high; and third, to specifically state that Rule 85 is an exception to sections 2 and 3 of Rule 29 of the classification. It is contended that the only increase created by the amended rule will be technical and will result in restricting the size of end windows to a maximum of 2 feet 4 inches by 3 feet 2 inches, which respondents claim is necessary because all closed cars owned by the rail carriers in this territory are fitted with end windows, the maximum dimensions of which are as just stated.

Protestants state they have no objections to these changes, but they claim that by the publication of Rule 85-A respondents have, in addition to the changes outlined, removed for application on California intrastate traffic the provisions of paragraph (b), section 3, Rule 29, of the Western Classification. They contend this portion of Rule 29 is now applicable within this state and under its provisions shipments exceeding 22 feet in length and not exceeding 12 inches in diameter which can not be loaded in a 36-foot car by the use of the end windows but could be loaded in a closed car of greater dimensions, should be assessed a minimum charge, based on 1000 pounds at the first-class rate. As

previously stated, the charge on shipments moving between points in California which could be loaded in a 36-foot closed car by the use of the end windows is assessed actual weight under the provisions of Rule 85 of the Exception Sheet, but on other traffic a minimum charge based on 4000 pounds at the first-class rate is assessed under Rule 29 of the Western Classification.

Respondents admit that Rule 85-A will not permit the application of paragraph (b), section 3, of the Western Classification Rule on Shipments which can not be loaded in a 36-foot car. They claim, however, this paragraph never applied, nor was it ever intended to apply, in connection with shipments other than those that are or could be loaded in a 36-foot car. Under respondents' interpretation of paragraph (b), shipments consisting of articles exceeding 22 feet in length and not exceeding 12 inches in diameter which could not be loaded in a 36-foot car would come within the purview of paragraph (a) of section 3 and would be assessed a minimum charge based on 4000 pounds at the first-class rate. Respondents agree with protestants that if shipments are or could be loaded in a 36-foot car by the use of the end window, charges would be assessed at actual weight in accordance with the exception sheet rule.

For the purpose of clarity section 3, Rule 29, of the classification is reproduced below in its entirety:

Articles too long or bulky to be loaded through side door without use of end door or window in closed car.

Section 3. (a) Unless otherwise provided in separate description of articles, a shipment containing articles, of dimensions other than those specified in section 3 (b) of this rule, the dimensions of which do not permit loading through the center side doorway 6 feet wide by 7 feet 6 inches high, without the use of end door or window, in a closed car not more than 36 feet in length by 8 feet 6 inches wide and 8 feet high, shall be charged at actual weight and authorized rating, subject to a minimum charge of 4000 pounds, at the first-class rate for the entire shipment.

Articles exceeding 22 feet in length.

(b) Unless a lower rate is otherwise provided, a shipment which contains an article exceeding 22 feet in length and not exceeding 12 inches in diameter or other dimension (see section 3 (a) of this rule for the minimum charge where greater dimensions are involved) shall be charged at actual weight and authorized rating, subject to a minimum charge of 1000 pounds at the first-class rate for the entire shipment.

It is respondents' position that paragraph (b) of the above section is a part of, and should be read in conjunction with, paragraph (a); that inasmuch as the latter refers to cars 36 feet in length the former should also be interpreted to apply on shipments that could be loaded in cars of the same length, and that paragraph (b) is so obviously an exception to paragraph (a) and solely for the purpose of providing lower minimum charges on articles of lesser dimensions than those coming under the provisions of paragraph (a) that there should be no confusion as to its meaning.

Protestants maintain that paragraph (a) refers to articles that can not be loaded in a 36-foot car without the use of the end doors or windows, and to place language in paragraph (b) by implication which makes the latter apply only on shipments which can be loaded in a 36-foot car with the use of the end window is placing a strained interpretation on the tariff. They contend there is nothing in paragraph (b) at the present time to limit its application to shipments loaded in 36-foot cars; that paragraphs (a) and (b) are not correlated, as evidenced by the fact that they are separately indexed in the classification and that it would be unreasonable to accept respondents' interpretation for the reason that practically all the closed cars of the carriers in this territory are 40 feet or over, there being relatively few 36-foot closed cars in actual use.

The theory upon which minimum charges are assessed on unusually long or bulky articles such as those contemplated in Rule 85 of the Exception Sheet and Rule 29 of the Western Classification is to compensate carriers for the difficulty and additional expense involved in handling this type of commodity. Neither protestants nor respondents have on this record submitted evidence to show what a reasonable charge for this service should be. In fact, the issues presented for determination have been narrowed to the question of whether or not, under a tariff interpretation of paragraph (b), section 3, Rule 29, of the Western Classification, articles over 22 feet in length and not exceeding 12 inches in diameter which can not be loaded in a 36-foot closed car but could be loaded in a closed car of greater length, should be assessed a minimum charge based on 1000 pounds at the first-class rate or upon 4000 pounds at the first-class rate.

It is in evidence that when paragraph (b) was first published in Western Classification No. 54, effective September 1, 1916, in compliance with an order of the Interstate Commerce Commission in Case No. 5239 (38 I. C. C. 257), it was specifically limited to apply only on shipments that could be loaded in cars as described in paragraph (a), *i. e.*, 36-foot closed cars. A witness for respondents testified that at the time the Official, Southern and Western Classifications were consolidated into one issue (effective December 30, 1919), the Official and Southern Committees thought the definite limitation of paragraph (b) to apply only on shipments that could be loaded in 36-foot cars was unnecessary from a tariff publication standpoint, and upon their recommendation the restriction was removed. Since the elimination of this definite restriction, paragraph (b) has undoubtedly become ambiguous and is susceptible of two interpretations. If it were respondents' intention to restrict the application of paragraph (b) to apply only in connection with articles that could be loaded in a 36-foot car, the tariffs should have so stated in unequivocal and definite terms. This it fails to do, for even if

construction is given to section 3 as a whole, the language used therein leaves the exact meaning of paragraph (b) obscure. It is a well recognized principle in tariff publication that the intention of the framers can not be given controlling weight and an ambiguity should be construed against the framer provided it does not result in placing an absurd construction on the tariff. (*Golden Gate Brick Company vs. Western Pacific Railroad*, 2 C. R. C. 607; *Pacific Coast Shippers' Association vs. A. C. and Y. R. Co.*, 112 I. C. C. 527.) We do not believe from the facts presented in this proceeding that the interpretation placed by protestants upon paragraph (b), section 3, Rule 29, to the effect that it applies on shipments containing articles that are or could be loaded in closed cars over 36 feet in length, results in a distorted construction of the tariff.

After careful consideration of all the facts of record we are of the opinion and find that respondents have not justified Rule 85-A of Supplement No. 7 to Pacific Freight Tariff Bureau Tariff 1-K, C. R. C. 384, in so far as its publication removes the application of paragraph (b), section 3, Rule 29, of the Western Classification No. 59, C. R. C. 347. An order will be entered requiring the cancellation of the said Rule 85-A without prejudice to the filing of a new rule containing changes not inconsistent with our findings herein.

ORDER.

It appearing that by order dated April 11, 1927, the Commission entered upon a hearing concerning the lawfulness of the publication of Rule 85-A of Pacific Freight Tariff Bureau Exception Sheet 1-K, C. R. C. 384, and ordered the operation of the said rule suspended;

It further appearing that a full investigation of the matters and things involved has been had, and that this Commission on the date hereof has made and filed its opinion containing its findings of fact and conclusions thereon, which said opinion is hereby referred to and made a part hereof, and has found that respondents have not justified Rule 85-A in its entirety;

It is hereby ordered, that respondents be and they are hereby notified and required to cancel on or before October 15, 1927, upon not less than five days' notice to this Commission and to the public, Rule 85-A, published on page 2 of Supplement No. 7 to Pacific Freight Tariff Bureau Exception Sheet 1-K, C. R. C. 384, such cancellation to be without prejudice to the filing of a new rule containing changes not inconsistent with our findings in the opinion which precedes this order.

It is hereby further ordered, that this proceeding be and the same is hereby discontinued.

Dated at San Francisco, California, this fourteenth day of September, 1927.

DECISION No. 18815.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE AND SELL TO THE NATIONAL CITY COMPANY (A NEW YORK CORPORATION) FIFTEEN MILLION DOLLARS FACE AMOUNT OF APPLICANT'S FIRST AND REFUNDING MORTGAGE GOLD BONDS OF SERIES "E" AND TO USE THE PROCEEDS FOR THE PURPOSES SET FORTH HEREIN.

Application No. 14072.

Decided September 19, 1927.

SECURITIES—BONDS—To ISSUE AND SELL.—Application granted.

C. P. Cutten, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Pacific Gas and Electric Company asks permission to issue and sell at not less than 93 per cent of their face value and accrued interest \$15,000,000 of its first and refunding $4\frac{1}{2}$ per cent mortgage gold bonds of Series "E," due June 1, 1957, and use the proceeds for the purposes hereinafter stated.

Applicant asks permission to use the proceeds from the sale of \$13,226,500 of bonds to pay the following bonds:

Pacific Gas and Electric Company first and refunding mortgage Series "A" 7 per cent bonds, redeemable on December 1st at 110-----	\$10,720,000 00
Metropolitan Gas Corporation first mortgage 5 per cent bonds, redeemable on December 1st at par-----	988,500 00
The Sacramento Valley Power Company first and refunding 6 per cent bonds, redeemable on January 1st at 105-----	435,000 00
Sacramento Electric Gas and Railway Company first consolidated mortgage 5 per cent bonds, due November 1st-----	1,083,000 00
Total -----	\$13,226,500 00

The testimony shows that the refunding of the aforementioned bonds will result in an annual saving to the company of \$114,255. The proceeds from the remaining \$1,773,500 of bonds will be used by the company to pay the cost of extensions, additions, betterments and improvements to applicant's properties and to those of Mt. Shasta Power Corporation, all of whose outstanding stock except shares necessary to qualify directors is owned by applicant.

The Pacific Gas and Electric Company reports actual or estimated construction expenditures, against which the Commission has not authorized the issue of any securities, amounting to \$9,166,985.18. This amount is determined as follows:

Unreimbursed capital expenditures at May 31, 1927, of Pacific Gas and Electric Company and Mt. Shasta Power Corporation (Exhibit "B," Application No. 13940)-----	\$470,823 57
Unexpended balance of capital expenditures authorized at May 31, 1927, by Pacific Gas and Electric Company (Exhibit "C" and "C-1," Application No. 13940)-----	8,755,958 84

Estimated cost of new construction by Pacific Gas and Electric Company (Exhibit "D," Application No. 13940)-----	\$3,000,000 00
Unexpended balance of capital expenditures authorized at May 31, 1927, by Mt. Shasta Power Corporation (Exhibit "E," Application No. 13940)-----	141,003 28
Total -----	\$12,367,785 69

By Decision No. 18744, dated August 19, 1927, in Application No. 13903 and Application No. 13940, the Commission authorized the company to use \$3,200,800.51 of the proceeds obtained from the sale of stocks and bonds to pay in part the \$12,367,785.69 of actual or estimated construction expenditures. Deducting the \$3,200,800.51 from the \$12,367,785.69 leaves a balance of \$9,166,985.18, which the company intends to finance in part through the use of the proceeds obtained from the sale of the \$1,773,500 of bonds to which reference has been made.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission for permission to issue \$15,000,000 of bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, as follows:

1. Pacific Gas and Electric Company may issue and sell on or before December 31, 1927, at not less than 93 per cent of their face value plus accrued interest \$15,000,000 of its first and refunding $4\frac{1}{2}$ per cent (Series "E") mortgage gold bonds, due June 1, 1957.

2. Pacific Gas and Electric Company shall use the proceeds, other than accrued interest, obtained from the sale of \$13,226,500 of the bonds to pay in part the bonds referred to in the foregoing opinion.

3. Pacific Gas and Electric Company shall use the proceeds, other than accrued interest, obtained from the sale of \$1,773,500 of said bonds to pay in part the cost of the extensions, additions, betterments and improvements referred to in the foregoing opinion, provided that only such cost as is properly chargeable to fixed capital accounts under the uniform system of accounts prescribed or adopted by the Railroad Commission may be paid through the use of said proceeds.

4. The accrued interest obtained from the sale of the \$15,000,000 of bonds herein authorized to be issued may be used for general corporate purposes.

5. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$2,640.

6. Pacific Gas and Electric Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this nineteenth day of September, 1927.

DECISION No. 18818.

IN THE MATTER OF THE APPLICATION OF SMITH RIVER POWER COMPANY, A VOLUNTARY ASSOCIATION, AND SMITH RIVER POWER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE SALE AND CONVEYANCE OF CERTAIN LANDS, TENEMENTS AND PROPERTY BELONGING TO SAID SMITH RIVER POWER COMPANY, A VOLUNTARY ASSOCIATION, TO SMITH RIVER POWER COMPANY, A CORPORATION, AND FOR PERMISSION TO SAID SMITH RIVER POWER COMPANY, A CORPORATION, TO ISSUE STOCK OR STOCK CERTIFICATES OR BONDS, NOTES OR OTHER EVIDENCES OF INDEBTEDNESS PAYABLE AT PERIODS OF MORE THAN TWELVE MONTHS AFTER DATE THEREOF.

Application No. 13820.

Decided September 19, 1927.

TRANSFER—WATER—ELECTRIC UTILITY—SECURITIES—To ISSUE.—Smith River Power Company, a voluntary association, authorized to transfer its properties to a corporation of the same name, and the latter authorized to issue \$6,000 of five-year 7 per cent notes and \$15,000 of stock in payment of the same, and to pay indebtedness.

Hersch and McNulty, for Applicants.

BY THE COMMISSION.

OPINION.

In this application, as amended at the hearing, Smith River Power Company, an association, asks permission to sell and transfer its public utility properties to Smith River Power Company, a corporation, which asks the Commission to declare that public convenience and necessity require it to construct and operate an electric plant, to issue \$15,000 of stock and not exceeding \$6,000 of notes for the purpose of acquiring the properties which the Smith River Power Company, an association, intends to sell to the corporation.

Smith River Power Company, a corporation, was organized on or about March 18, 1927, with an authorized capital stock of \$25,000, divided into 1000 shares of \$25 each. The articles of incorporation show that \$15,000 of stock has been subscribed for by C. Romander (\$5,000), Wm. K. Owen (\$5,000) and Clarence W. Westbrook (\$5,000). The corporation was organized, among other things, for the purpose of acquiring the properties of Smith River Power Company, an association,

operating under a declaration of trust. The properties consist of the water system known as the Anthony Water Works, supplying the town of Smith River, and an electric light plant. The water plant was in operation prior to March 23, 1912. The record shows that about three years ago several residents of Smith River organized an association for the purpose of operating the water system and constructing an electric light plant to be operated on a mutual basis. During the early part of this year the electric light plant was destroyed by fire. The association has rebuilt the same and is now furnishing electric energy to its members and others. Neither the association nor the corporation obtained permission from the Commission to construct and operate the electric light plant. Such permission is, however, sought in this proceeding. The territory to be served by the electric light plant comprises sections 26 and 35 of township 18 north, range 1 west, Humboldt meridian; section 2, township 17 north, range 1 west, Humboldt meridian, and the east $\frac{1}{2}$ of section 27, township 18 north, range 1 west, Humboldt meridian.

The testimony shows that the electric transmission and distribution lines have been constructed under a permit, not a franchise, obtained from the board of supervisors of Del Norte County. It occurs to us that the Smith River Power Company, a corporation, should obtain a franchise from the board of supervisors of Del Norte County to use the highways and other public places in the conduct of its business. Pending the acquisition of such franchise, the order herein will grant to the corporation permission to complete and to continue to operate the electric light plant.

The depreciated cost of the properties to be transferred to the corporation is reported as follows:

Power plant.....	\$8,920 45
Transmission and distribution lines.....	4,631 41
Water system.....	3,091 55
Land	392 33
Power house.....	966 84
Fuel on hand.....	20 00
Accounts receivable.....	466 28
Total	\$18,488 66

There is now due on the power plant to Fairbanks, Morse & Company the sum of \$4,000 represented by an open account. The association is indebted to other parties in the sum of approximately \$1,000. The corporation asks permission to issue at par \$15,000 of stock to acquire the properties of the Smith River Power Company, an association, and assume the indebtedness of that association. If it becomes necessary, the corporation will, at a later date, issue notes to pay such indebtedness and extend its water and electric light system. For that reason it asks permission to issue not exceeding \$6,000 face amount of notes, payable

on or before five years after date, with interest not to exceed 7 per cent per annum. It will not place a mortgage on its properties unless required by the person from whom it obtains the loan. If it does become necessary to execute a mortgage it will file a supplemental application in this proceeding for permission to execute such mortgage.

Smith River has a population of about 350. The electric light plant serves approximately 70 consumers and the water plant 65. During 1926 the income from the water works is reported at \$1,336.50 and from the electric plant, \$2,945.38. The expenses, as reported, consist of

Fuel oil	\$781 71
Labor	1,200 00
Repairs	136 25
Insurance	111 80
Making a total expense of	\$2,229 76

No one appeared at the hearing to protest the granting of this application. A representative of Hobbs, Wall & Company, which operates the electric light system at Crescent City, was at the hearing and stated that his company had no desire to extend its system to Smith River. There is no question but that the continued operation of the electric light plant, as well as the water system, meets a public necessity.

ORDER.

The Railroad Commission having been asked to declare that public convenience and necessity require Smith River Power Company, a corporation, to acquire, construct and operate an electric light plant, and to enter its order authorizing the Smith River Power Company, a voluntary association, to transfer its properties to Smith River Power Company, a corporation, and to authorize such corporation to acquire said properties and issue stock and assume indebtedness in payment therefor, and to issue not exceeding \$6,000 of notes, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that this application should be granted, as provided in this order, and that the money, property or labor to be procured or paid for by the issue of the stocks and notes herein authorized, is reasonably required by said corporation, and that the expenditures are not in whole or in part reasonably chargeable to operating expenses or to income; therefore,

The Railroad Commission hereby declares that hereafter upon the filing of a certified copy of an ordinance of the county of Del Norte granting to Smith River Power Company, a corporation, a franchise, and a stipulation in which the corporation agrees that it, its successors and assigns, will never claim a value of said franchise in excess of the amount actually paid to said county of Del Norte for said franchise, the Railroad Commission will declare that public convenience and

necessity require and will require the exercise by Smith River Power Company, a corporation, of the rights and privileges granted to it by such ordinance, subject to such terms and conditions as the Railroad Commission may prescribe.

It is hereby ordered, that Smith River Power Company, a voluntary association, be and it is hereby authorized to transfer to Smith River Power Company, a corporation, the properties described in paragraph four of the petition in this proceeding, said properties in general consisting of a water system supplying the town of Smith River, and the electric light plant supplying said town and community with electricity, said Smith River Power Company, a corporation, may operate said properties, subject to the condition that it shall within four months after the date hereof file with the Commission a certified copy of an ordinance of the board of supervisors of Del Norte County permitting it to use the highways and other public places in the territory which it intends to serve.

It is hereby further ordered, that the Smith River Power Company, a corporation, be and it hereby is permitted to acquire the aforesaid properties and to issue in payment therefor not exceeding \$15,000 par value of its common capital stock and to assume the indebtedness of said Smith River Power Company, an association, said indebtedness not to exceed \$5,000.

It is hereby further ordered, that Smith River Power Company, a corporation, be and it is hereby authorized to issue a note for the sum of not exceeding \$6,000, payable on or before five years after date with interest at not exceeding 7 per cent per annum, and use the proceeds obtained from the issue of such note to pay the indebtedness which it may assume from the Smith River Power Company, an association, or to construct extensions and additions to its power and water plant, provided that if the company issues a note for a period of less than five years it may renew the same from time to time until the term of the original note and the terms of all renewals thereof aggregate five years from and after the date thereof.

It is hereby further ordered, that the authority herein granted will become effective when the Smith River Power Company has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and that Smith River Power Company, a corporation, shall keep such record of the issue of the stock and notes herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that within 60 days after the acquisition of the properties referred to herein, Smith River Power Company shall

file with the Railroad Commission a certified copy of the deed or other instrument under which it acquires and holds title to said properties.

Dated at San Francisco, California, this nineteenth day of September, 1927.

DECISION No. 18819.

CITY AND COUNTY OF SAN FRANCISCO, A MUNICIPAL CORPORATION,

vs.

SPRING VALLEY WATER COMPANY.

Case No. 842.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY FOR PERMISSION TO INCREASE THE RATES AND CHARGES FOR WATER FURNISHED BY IT TO THE CITY AND COUNTY OF SAN FRANCISCO AND ITS INHABITANTS.

Application No. 2739.

Decided September 19, 1927.

SERVICE—WATER UTILITY—TO EXTEND—COST TO AMORTIZE.—Spring Valley Water Company authorized to expend \$2,230,950 to make needed extension of its pipe lines and distribution system serving the city and county of San Francisco, and to amend condition No. 3 of the Commission's order in Decision No. 9352, to provide for amortizing the cost of said improvements.

UNAMORTIZED CAPITAL EXPENDITURES—PURCHASE AGREEMENT—TO AMEND.—Condition No. 4 of Commission's previous order amended to provide for increase of purchase price of properties to be paid by city and county of San Francisco by the amount by which the company shall not have been reimbursed through the amortization fund, established by Decision No. 8819, in the event the city shall exercise its option to purchase said properties.

McCutchen, Olney, Mannon and Greene, by Allan P. Matthew, for Spring Valley Water Company.

John J. O'Toole, City Attorney, for City and County of San Francisco.

SEAVEY, Commissioner.

SUPPLEMENTAL OPINION.

On September 6, 1927, Spring Valley Water Company filed a supplemental petition in the above entitled proceedings asking the Commission to modify the order in Decision No. 9352, dated August 12, 1921, as amended, by entering its fourth supplemental order in said proceedings providing:

First. That condition 3 of said order be amended so as to provide that, commencing with October 1, 1927, if the revenues of Spring Valley Water Company shall exceed its requirements as defined in said condition 3 by more than the amount of the annual contribution to the amortization fund, two-thirds of the amount of such excess shall be credited to the amortization fund and one-third thereof to the surplus of the Spring Valley Water Company in the place and stead of an equal apportionment as required prior to such date.

Second. That condition 4 of said order be amended so as to provide that if the properties of the Spring Valley Water Company shall be purchased by the city and county of San Francisco, prior to the first day of January, 1934, and, at the time of such purchase, Spring Valley Water Company shall not have been fully reimbursed for expenditures made in additions to and extensions of its water supply and distribution system (other than the expenditures required by the provisions of condition 1) by means of the additional contributions to the amortization fund, that is to say, the contributions which are additional to the annual contributions, in the manner provided in condition 3, as amended, the purchase price of the said properties may be increased by the amount for which the Spring Valley Water Company shall not have been so reimbursed.

The company alleges and submitted evidence to show that its present transmission lines from its reservoirs in San Mateo County to San Francisco and some of its distributing facilities in San Francisco are inadequate. The present transmission mains have a delivering capacity of about 47,000,000 gallons daily, while an additional 3,000,000 gallons daily may be obtained from Lake Merced, making a total maximum delivery of about 50,000,000 gallons daily. It is of record that the average daily consumption for 1926 was 47,000,000 gallons daily and for the first seven months of the current year 49,800,000 gallons daily, with a peak demand of 53,000,000 gallons reached in a single day. On several days during the current year the consumption was above 50,000,000 gallons. The company has 110,000,000 gallons storage capacity in San Francisco. Whenever the consumption exceeds 50,000,000 gallons per day the water in the local reservoirs is drawn down.

It is believed by representatives of Spring Valley Water Company that it is necessary and in the public interest, that a new fifty-four-inch transmission main having a daily capacity of 30,000,000 gallons be constructed from the San Andreas reservoir in San Mateo County to the Laguna Honda reservoir in San Francisco, and that it is likewise necessary that the Stanford Heights distributing reservoir in San Francisco be enlarged so as to increase its existing capacity by 5,000,000 gallons, that a new twenty-inch main be installed from the Stanford Heights district to the Presidio Heights district, that certain alterations be made and the present pumping facilities, together with other additions and betterments to enable delivery of the increased water supply from the new transmission mains to the Spring Valley Water Company's consumers. The cost of these improvements is estimated at \$2,230,950, segregated as follows:

Pipe line, 54", San Andreas to Lake Honda.....	\$1,484,950 00
Moving pumps and boilers to central station.....	140,000 00
8900' 24" force, main central station to Stanford Heights.....	75,000 00
13,300' 20" pipe, Stanford Heights to Presidio Heights.....	110,000 00

Construct east half Standard Heights reservoir.....	\$70,000 00
16,990' 48"-36" pipe, to University Mound district.....	301,000 00
Extension of high pressure in Daly Hill, Crocker, Amazon and Clay street tank, etc.....	50,000 00
Total	\$2,230,950 00

The company is willing to undertake this work immediately, provided that conditions 3 and 4 of the order in Decision No. 9352, dated August 12, 1921, as amended, will be amended, as indicated herein.

It is believed that by placing into the amortization fund two-thirds of the surplus, as defined in condition 3 in the order in Decision No. 9352, as amended, that the amortization fund will be sufficient to amortize the added investment prior to January 1, 1934.

It is admitted by representatives of the city and county of San Francisco that the installation of the proposed improvements is necessary in order that the inhabitants of San Francisco may have an adequate water supply. John J. O'Toole, city attorney, however, stated that the board of supervisors feel that if the improvements are practically financed out of revenue they should, when the company is fully reimbursed, become the property of the city and county of San Francisco. He further requested that the granting of the company's petition should in no way affect the pending rate litigation and that the order should not contain any reference to the amount to be added to the purchase price if the city exercises its option prior to the complete amortization of the added investment.

We do not believe that we have any authority to require the company to deed the property to be constructed to the city in the event that the city does not exercise its option and the investment is fully amortized. If the city does exercise its option it is contemplated that the company will receive the difference between the cost of the properties and the amount in the amortization fund.

It should be understood by all that the granting of the request now before the Commission does not in any way prevent either the city or the company to proceed with the pending rate litigation.

In Decision No. 9352, dated August 12, 1921, the Commission, referring to the sale of the properties to the city, says:

It is the view of the Commission that the Spring Valley Water Company should hold itself in readiness throughout the term during which its cooperative plan shall be in effect, to sell to the city the properties included in its offer of January 14, 1921, at a price which shall not exceed the price heretofore fixed by the Railroad Commission, increased only by the amount of actual expenditures made by the company for capital purposes between the first day of March, 1920, and the first day of July, 1921, and other capital expenditures required of the company under the terms and conditions of the order herein.

There is some question whether the language quoted applies to the expenditures now contemplated. It is only fair and equitable that if

the company installs the improvements referred to herein, it should be compensated therefor, if the city acquires its properties. The measure of this compensation should be the difference between the actual cost of the improvements and the amount of such cost amortized at the time of the transfer. That the company is entitled to such compensation is admitted by the city attorney. However, to remove all doubt concerning this matter it is believed proper to include in the order the amendment to condition 4 suggested by the company.

I herewith submit the following form of order:

FOURTH SUPPLEMENTAL ORDER.

Spring Valley Water Company having requested the Commission to amend Decision No. 9352, dated August 12, 1921, as amended, a public hearing having been held and the Commission being of the opinion that the installation of the additions to and extensions of applicant's water supply and distribution facilities referred to in the foregoing opinion should be immediately undertaken by applicant and that the Commission's order in Decision No. 9352, dated August 12, 1921, as amended, should be further amended; therefore,

It is hereby ordered, that condition 3 of the Commission's order in Decision No. 9352, dated August 12, 1921, as amended, be and it is hereby amended to read as follows:

Commencing with the year 1922 the Spring Valley Water Company shall create and establish out of its surplus a fund for the purpose of amortizing the capital expenditures which will be incurred by the company in accordance with the above requirements, such fund being hereinafter referred to as the amortization fund. Said amortization fund shall be created and maintained as follows:

After full provision has been made during each year for the payment of operating and maintenance expenses, including the cost of operating the Hetch Hetchy conduit and pumping station (including likewise the payment of interest on the cost of construction of such conduit and pumping station, as provided in condition 2 of said order) the payment of taxes and assessments, the creating of a depreciation reserve of \$300,000 per annum, the payment of interest on all bonds and notes and other interest-bearing indebtedness, and the payment of dividends at the rate of 5 per cent per annum upon the outstanding capital stock of the aggregate par value of \$28,000,000, there shall be set aside out of the surplus after meeting the foregoing requirements, and placed in the amortization fund, such sum, hereinafter referred to as the annual contribution, as will upon the expiration of a term of twelve years, with interest at 5 per cent compounded annually, yield a total sum equivalent to the aggregate of the capital expenditures required under the provisions of condition 1 of said order; provided, however,

that if the revenues of any particular year shall exceed the requirements of the Spring Valley Water Company as hereinabove set forth by more than the amount of such annual contribution, the amount of such excess shall be apportioned equally between the amortization fund and the surplus of the Spring Valley Water Company, but provided further that commencing with the first day of October, 1927, two-thirds of the amount of such excess shall be credited to the amortization fund and one-third thereof to the surplus of the Spring Valley Water Company in the place and stead of an equal apportionment, as required prior to such date; provided, further, that if the revenues of any particular year shall be insufficient to yield a surplus equivalent to such annual contribution above the aforesaid requirements of the Spring Valley Water Company, the company shall not, during such year or thereafter, be required to make any contribution to the amortization fund until a surplus shall have been derived in subsequent years in a sufficient aggregate amount to make up such deficit or accumulated deficits, together with interest upon the amount thereof at the rate of 7 per cent per annum; provided, further, that the Spring Valley Water Company shall not be required to make any contribution to the amortization fund during the years 1922 and 1923, but in the event that the properties of the Spring Valley Water Company which were offered for sale to the city and county of San Francisco on the fourteenth day of January, 1921, shall be purchased by the city and county of San Francisco prior to the first day of January, 1934, the sum which shall be transferred to and become the property of the city and county of San Francisco as hereinafter provided shall be not less than the sum which would have been accumulated if contribution had been made to the amortization fund in accordance with the foregoing requirements of this condition. All moneys placed in the amortization fund herein required to be established shall be invested in the Spring Valley Water Company in such manner as will in its judgment afford the maximum interest yield consistent with safety of principal. In the event that the depreciation reserve of \$300,000 per annum hereinbefore provided shall be insufficient to defray the expenditures of the Spring Valley Water Company for the renewal and replacement of operative properties and for additions to and extensions of its water supply and distribution system, the Spring Valley Water Company is authorized, to the extent of such insufficiency, to reimburse itself for the cost of additions to and extensions of its water supply and distribution system out of such moneys as have been or shall be placed in the amortization fund or as shall become available therefor, which are additional to the annual contributions, and to the interest accumulations upon such annual contributions; provided, that upon all moneys so expended from the amortization fund a charge of five (5) per cent per annum shall

be credited to the amortization fund to reimburse it for loss of interest upon said moneys and shall be paid by the Spring Valley Water Company into said fund; and provided, further, that the making of any such addition or betterment shall be submitted to the city engineer and if disapproved by him within thirty days after such submission and such addition or betterment shall nevertheless be made or have been made, it shall not be permitted to the Spring Valley Water Company to reimburse itself for the cost thereof in the manner herein provided. The additions to and extensions of the water supply and distribution system of the Spring Valley Water Company, for which it is so reimbursed as aforesaid, shall, to the extent of such reimbursement, be in the place and stead of the amortization fund.

It is hereby further ordered, that condition 4 of the Commission's order in Decision No. 9352, dated August 12, 1921, as amended, be and it is hereby amended to read as follows:

As a further condition of the granting of such increase, it is required that in the event that the properties of the Spring Valley Water Company which were offered for sale to the city and county of San Francisco on the fourteenth day of January, 1921, shall be purchased by the city and county of San Francisco prior to the first day of January, 1934, the amortization fund established in accordance with the requirements of condition 3 hereof shall be transferred to and become the property of the city and county of San Francisco; provided, however, that if, up to the time that such properties shall be purchased by the city and county of San Francisco, the revenues of the company shall have been insufficient to meet the requirements of the company as specified in condition 3 hereof, and such deficit or accumulated deficits shall not have been offset by the surplus derived from the revenue of subsequent years and prior to the time of such purchase, the said amortization fund, before being transferred to the city and county, may be diminished by the amount of such deficit or accumulated deficits, and only the balance paid over to the city and county of San Francisco; and provided, further, that if at the time of such purchase the company shall not have been fully reimbursed for expenditures made in additions to and extensions of its water supply and distribution system (other than the expenditures required by the provisions of condition 1 hereof) by means of the additional contributions to the amortization fund, that is to say, the contributions which are additional to the annual contributions, in the manner provided in condition 3 of this order as amended, the purchase price of the said properties may be increased by the amount for which the company shall not have been so reimbursed. In the event that said properties of the Spring Valley Water Company shall not have been purchased by the city and county of San Francisco

prior to the first day of January, 1934, the said amortization fund shall thereafter remain the property of the Spring Valley Water Company.

It is hereby further ordered, that the order in Decision No. 9352, dated August 12, 1921, as amended, shall remain in full force except as modified by this fourth supplemental order.

The foregoing supplemental opinion and fourth supplemental order are hereby approved and ordered filed as the supplemental opinion and fourth supplemental order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this nineteenth day of September, 1927.

DECISION No. 18820.

IN THE MATTER OF THE APPLICATION OF WESTERN MOTOR TRANSPORT COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO STAGE LINE FOR THE TRANSPORTATION OF PERSONS BETWEEN OAKLAND AND HEALDSBURG, CALIFORNIA, AND INTERMEDIATE POINTS.

Application No. 5758.

IN THE MATTER OF THE APPLICATION OF WESTERN MOTOR TRANSPORT COMPANY TO SELL AND A. DUNHAM TO PURCHASE OPERATIVE RIGHTS OF THE FORMER BETWEEN NAPA AND SANTA ROSA, AND OF THE WESTERN MOTOR TRANSPORT COMPANY TO SELL AND J. F. BIRCH TO PURCHASE THE OPERATIVE RIGHTS OF THE FORMER BETWEEN SANTA ROSA AND HEALDSBURG.

Application No. 6775.

Decided September 19, 1927.

CERTIFICATE—AUTO STAGES—UNAUTHORIZED SERVICE.—California Transit Company, successor to Western Motor Transport Company, ordered to discontinue immediately unauthorized service between Vallejo and Napa and intermediate points, and to cancel all tariffs and time schedules therefor now on file with the Commission.

Sanborn and Roehl, by *A. B. Roehl*, for Western Motor Transport Company and A. Dunham, Respondents.

Devlin and Brookman, by *Frank R. Devlin*, for J. F. Birch, Respondent.

J. E. Lyons, for Southern Pacific Company.

J. J. Geary and R. W. Palmer, for Northwestern Pacific Railroad Company.

John T. York, for San Francisco, Napa and Calistoga Railway.

A. L. Whittle, for San Francisco-Oakland Terminal Railway.

Jesse Steinhart, for San Francisco-Sacramento Railroad.

BY THE COMMISSION.

OPINION.

By its Decision No. 8466 on Application No. 5758, as decided December 20, 1920, the Commission granted a certificate of public convenience and necessity to Western Motor Transport Company, a corporation, in accordance with the following declaration:

The Railroad Commission hereby declares that public convenience and necessity require the operation by applicant, Western Motor Transport Com-

pany, of a through auto stage service as a common carrier of passengers and baggage between Oakland and Healdsburg, via Napa, Sonoma and Santa Rosa, but it shall not carry local passengers between North Vallejo and Napa and intermediate points nor between Napa and Santa Rosa and intermediate points, nor between Santa Rosa and Healdsburg and intermediate points, but it may carry passengers traveling through from one to another of said portions of said through route and between any such points and points on its Sacramento line east of Sacramento Junction.

By its Decision No. 8994 on Application No. 6775, decided May 21, 1921, the Commission by its order therein approved the sale and transfer by Western Motor Transport Company to A. Dunham of the portion of the operating right between Napa and Santa Rosa as heretofore granted by this Commission's Decision No. 8466, on Application No. 5758, said application being for through service between Oakland and Healdsburg; and also approved the sale and transfer by said Western Motor Transport Company to J. F. Birch of the portions of the operative right between Santa Rosa and Healdsburg as heretofore granted by this Commission in its said Decision No. 8466 on Application No. 5758, said application being for through service between Oakland and Healdsburg.

By reason of the granting of authority for the transfer of two certain portions of an operative right originally granted for the operation of a through service, it appearing that investigation should be had as to the ability of Western Motor Transit Company to render the through service for which the certificate was originally granted, the Commission made its order reopening Applications Nos. 5758 and 6775 for further hearing and investigation and citing Western Motor Transport Company, a corporation; A. Dunham and J. F. Birch to appear and show cause why Decisions Nos. 8466 and 8994, both or either of them, should not be amended or annulled.

A public hearing on the investigation and order to show cause was conducted by Examiner Handford at San Francisco, at which time respondents appeared, evidence was received, and the matter was duly submitted.

F. D. Everman, former traffic manager of respondent Western Motor Transport Company; A. Dunham and J. F. Birch, testified as to the operation now conducted under the authority of the above mentioned decisions.

By stipulation the record heretofore made in Applications Nos. 5758 and 6775, and the subsequent tariff filings were to be considered herein.

In compliance with the Commission's order in Decision No. 8466, respondent Western Motor Transport Company on January 13, 1921, filed with the Railroad Commission its Local Passenger Tariff No. 4 (C. R. C. No. 5, issued January 8, 1921, effective March 1, 1921), naming one-way and round-trip fares between Oakland and Healdsburg

and intermediate points. The intermediate points appearing in this tariff are Richmond, Pinole, Rodeo, South Vallejo, North Vallejo, Napa, Sonoma, Boyes Springs, Santa Rosa and Windsor.

On March 2, 1921, Western Motor Transport Company filed with the Railroad Commission its Local Passenger Tariff No. 5 (C. R. C. No. 6 issued February 23, 1921, effective March 1, 1921), canceling Local Passenger Tariff No. 4, and naming one-way and round-trip fares between Oakland and Healdsburg and intermediate points. The intermediate points appearing in this tariff are Albany, Pinole, Rodeo, Tormey, Crockett, South Vallejo, North Vallejo, Flosda, Napa Junction, Sacramento Junction, Soscot, Napa Hospital, Napa, Kings, Carneros, Vineburg, Sonoma, Boyes Springs, Eldridge, Glen Ellen, Kenwood, Annadel, Melitta, Santa Rosa and Windsor.

On May 24, 1921, Western Motor Transport Company filed with the Railroad Commission its Supplement No. 1 to Local Passenger Tariff No. 5 (Supplement No. 1 to C. R. C. No. 6, issued May 23, 1921, effective May 29, 1921), naming one-way and round-trip fares between Oakland and Napa, and between Sacramento and Napa, and intermediate points, said tariff supplement being issued under Rule 13-b of General Order No. 51 and order dated May 21, 1921, in Application No. 6775. This supplement cancels all fares applying between points east of Napa on the one hand and points west of Napa on the other and refers to rates in Western Motor Transport Company's Joint Tariff C. R. C. No. 7, supplements thereto and reissues thereof, providing joint fares via Dunham Auto Bus Line and J. F. Birch's Healdsburg-Santa Rosa Auto Stage Line; also canceling all fares in tariff applying between all points west of Napa and referring to such rates to Dunham Auto Bus Line Joint Passenger Tariff No. 1, supplements thereto and reissues thereof, naming joint fares in connection with J. F. Birch's Healdsburg-Santa Rosa Auto Stage Line. The following intermediate points are the only ones to which rates are effective after the effective date of this supplement: Albany, Pinole, Rodeo, Tormey, Crockett, South Vallejo, Flosda, Napa Junction, Sacramento Junction, Soscot and Napa Hospital.

On May 24, 1921, Western Motor Transport Company filed its tariff in connection with A. Dunham and J. F. Birch (C. R. C. No. 7, issued May 23, 1921, effective May 29, 1921), naming joint one-way and round-trip fares between Oakland and Sacramento, California, and Healdsburg, California, and to intermediate points, via Napa, in which appear the following intermediate points: Albany, Pinole, Rodeo, Tormey, Crockett, South Vallejo, North Vallejo, Flosda, Napa Junction, Sacramento Junction, Soscot, Napa Hospital, Kings, Carneros, Vineburg, Sonoma, Boyes Springs, Eldridge, Glen Ellen, Kernwood, Annadel, Melitta, Santa Rosa and Windsor.

J. F. Birch, owner Birch's Automobile Line, filed with the Railroad Commission his Local Passenger Tariff No. 1 (C. R. C. No. 1, issued February 19, 1917, effective March 1, 1917), naming one-way, round-trip, party and commutation passenger fares between Santa Rosa and Healdsburg and intermediate points, said intermediate points being Mark West Corner, Windsor and Sotoyome Corner. Also his Local Passenger Tariff No. 2 (C. R. C. No. 2, issued June 28, 1918, effective July 1, 1918), in which the additional intermediate point of Fulton Corner was shown.

On September 23, 1922, J. F. Birch filed Supplement No. 1 to Local Passenger Tariff No. 5 (Supplement No. 1 to C. R. C. No. 5, issued September 22, 1922, effective September 23, 1922), canceling all fares and A. Dunham adopted as his own the rates, rules and regulations as previously filed by J. F. Birch, all in accordance with the authorization contained in the Commission's Decision No. 11007, on Application No. 8258, as decided September 20, 1922.

A. Dunham, proprietor Dunham's Auto Bus, filed his Local Passenger Tariff No. 1 (C. R. C. No. 1, issued February 24, 1917, effective March 1, 1917, naming one-way and round-trip passenger fares between Napa and Santa Rosa and intermediate points, said intermediate points being Carneros, Vineburg, Sonoma, Hot Springs, Eldridge, Glen Ellen, Kenwood, Annadel and Melitta.

A. Dunham, proprietor Dunham's Auto Bus, filed his Local Passenger Tariff No. 1 (C. R. C. No. 2, issued February 24, 1917, effective March 1, 1917), naming one-way and round-trip fares between Santa Rosa and Healdsburg and intermediate points, said intermediate points being Mark West, Windsor and Sotoyome Corners. This tariff was canceled, the service having been discontinued by Supplement No. 2 to C. R. C. No. 2, issued December 17, 1917.

On May 24, 1921, A. Dunham, by his participation in Joint Tariff No. 1 of A. Dunham and J. F. Birch, filed tariff (C. R. C. No. 3, of A. Dunham, issued May 23, 1921, effective May 29, 1921), naming joint fares between Napa and Healdsburg and intermediate points, said intermediate points being Carneros, Vineburg, Sonoma, Boyes Springs, Eldridge, Glen Ellen, Kenwood, Annadel and Melitta. This tariff was issued under Rule 13-a of General Order No. 51, and in compliance with the order in Decision No. 8994, on Application No. 6775, as decided May 21, 1921. This tariff was canceled on September 23, 1922, by A. Dunham's participation in the cancellation by Birch and the adoption by Dunham (Supplement No. 1 to C. R. C. No. 3, issued September 22, 1922, effective September 23, 1922), of all fares, rules and regulations as previously filed by J. F. Birch under said joint tariff. This supplement was issued under the authorization of the

Railroad Commission as contained in its Decision No. 11007, on Application No. 8258, as decided September 20, 1922.

By the authority contained in this Commission's Decision No. 10073, on Application No. 7540, as decided February 8, 1922, Western Motor Transport Company transferred its operative rights to California Transit Company, and said California Transit Company filed with the Railroad Commission on February 20, 1922, its adoption of the rates, fares, rules and regulations of Western Motor Transport Company (Calif. Transit Co. Supplement No. 1 to C. R. C. No. 8 of Western Motor Transit Co., issued February 18, 1922, effective February 23, 1922).

We have given full consideration to the record in this proceeding and it is apparent that no authority was granted for other than a through service between Oakland and Healdsburg by our Decision No. 8466, on Application No. 5758, as decided December 20, 1920, with the exception of the transportation of passengers locally from one to another portion of said route.

The amended application specifically eliminated such local transportation by paragraph IV of its amended application under date of November 3, 1920 (filed November 5, 1920), as follows:

That applicant now desires to operate an auto stage line, as a common carrier of passengers for compensation, between Oakland and Healdsburg, California, and intermediate points, via Vallejo, Napa, Sonoma, Boyes Springs, Fetter Springs, Agua Caliente, Glen Ellen, Kenwood and Santa Rosa, that applicant does not desire to carry local passengers between North Vallejo and Napa, California, or between Napa and Santa Rosa or between Santa Rosa and Healdsburg.

The opinion preceding the order in Decision No. 8466 recited the waiver of applicant as follows:

It appears from the amended application and by statement of applicant at the hearing, that applicant does not desire to carry local passengers between North Vallejo and Napa and intermediate points, that portion of its proposed through route being now served by San Francisco, Napa and Calistoga Railway, herein referred to as the Napa line.

Applicant does not desire to carry local passengers between Napa and Santa Rosa or intermediate points, this territory being served by Dunham's Santa Rosa, Sonoma and Napa Auto Stage Line, hereinafter referred to as the Dunham line.

Applicant does not desire to carry local passengers between Santa Rosa and Healdsburg, that portion of its proposed through route being served by J. F. Birch, operating Santa Rosa-Healdsburg Auto Line, hereinafter referred to as the Birch line.

By the transfer authorized in the Commission's Decision No. 8994, on Application No. 6775, as decided May 21, 1921, the Western Motor Transport Company by the sale of its operative rights between Napa and Santa Rosa to A. Dunham, and of its operative rights between Santa Rosa and Healdsburg to J. F. Birch, said operative rights constituting portions of the through route granted to said Western Motor

Transport Company by the Commission's Decision No. 8466 on Application No. 5758, was no longer able to render the through service, Oakland to Healdsburg, for which authority was granted under Decision No. 8466. The situation as regards service between Napa and Santa Rosa, and between Santa Rosa and Healdsburg, thereupon became the same as that existing prior to the granting of the authority for the through route authorized by Decision No. 8466 in that A. Dunham eliminated the duplicate service over his established route between Napa and Santa Rosa by the through stages, and J. F. Birch likewise eliminated similar duplicate service over his established route between Santa Rosa and Healdsburg.

As no authority was granted to or requested by Western Motor Transport Company for the transportation of passengers locally between North Vallejo and Napa, we hereby conclude and find as a fact that no right now exists for such operation and the tariff filings of Western Motor Transport Company, to which company California Transit Company is successor in interest, must be withdrawn as regards local business between Oakland and South Vallejo and intermediate points on the one hand and the stations of North Vallejo, Flosda (or Flosden), Napa Junction, Soscot, Napa Hospital (or Napa State Hospital) and Napa on the other hand.

ORDER.

A public hearing having been held in the above-entitled proceedings which were reopened on the Commission's own motion, evidence having been received, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusion and finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that California Transit Company, a corporation, successor in interest to Western Motor Transport Company, a corporation, by the authority contained in this Commission's Decision No. 10073, on Application No. 7340, as decided February 8, 1922, be and the same hereby is directed to discontinue immediately the transportation of passengers locally between Vallejo (formerly North Vallejo) and Napa, and the intermediate points of Flosda (or Flosden), Napa Junction, Soscot and Napa Hospital (or Napa State Hospital), and between any such intermediate points; and to cancel immediately all tariffs and time schedules as now filed with this Commission naming rates, fares and service to said unauthorized points.

Dated at San Francisco, California, this nineteenth day of September, 1927.

DECISION No. 18821.

IN THE MATTER OF THE APPLICATION OF A. A. PETERS, AS TRUSTEE IN BANKRUPTCY OF SOUTH SHORE PORT COMPANY, A CORPORATION, TO SELL AND BAY SHORE FREIGHT LINES TO PURCHASE A COMBINATION WATER AND TRUCK TRANSPORTATION LINE OPERATING BETWEEN SAN FRANCISCO, OAKLAND AND ALAMEDA ON THE ONE HAND AND GILROY, SAN JOSE, LOS GATOS, SARATOGA AND INTERMEDIATE POINTS ON THE OTHER HAND.

Application No. 13962.

Decided September 20, 1927.

TRANSFER—FREIGHT CARRIER—WATER AND TRUCK LINES.—Application granted.

Rufus H. Kimball, for Applicants.

BY THE COMMISSION.

OPINION.

In this application A. A. Peters, as trustee in bankruptcy of the estate of South Shore Port Company, a corporation, a bankrupt, asks permission to sell the operative rights and properties formerly owned by South Shore Port Company to Frank Chapman Willson, William Quinby Wright and Godfred Theusen, as trustees, associates doing business under the firm name and style of Bay Shore Freight Lines.

South Shore Port Company was organized during 1920. It first engaged in the business of transporting freight by motor boat between San Francisco and Port South Shore, Santa Clara County, but thereafter, pursuant to authority granted by the Commission by Decision No. 13189, dated February 20, 1924, acquired from J. J. Hubert the operative right to transport freight by auto trucks between Port South Shore and Palo Alto, Mayfield, Mountain View, Sunnyvale, Santa Clara, San Jose, Saratoga, Los Gatos, Campbell, Alviso, Coyote, Morgan Hill and Gilroy, over all roads and highways and for a distance of two miles on either side of the roads and highways traversed in reaching such communities. In 1925 the company enlarged its operations when the Commission, by Decision No. 14923, dated May 14, 1925, authorized it to establish service by vessel between Oakland and Alameda on the one hand and Port South Shore on the other in connection with the service performed by auto trucks between Port South Shore and the other points in Santa Clara County.

The annual financial reports filled with the Commission by the company show an accumulated deficit from operations on December 31, 1926, of \$62,288.29, and outstanding indebtedness on that date of \$120,288.77 consisting of \$41,500 of 7 per cent mortgage notes that matured on February 6, 1925, \$42,400 of unsecured 7 per cent demand notes and \$36,388.77 of accounts payable. It appears that on March 11, 1927, a petition was filed in the District Court of the United States for the Northern District of California by three unsecured

creditors for an order adjudging South Shore Port Company a bankrupt. Such an order was made on March 24, 1927, and on April 16, 1927, A. A. Peters was appointed as trustee of the properties. Subsequently, on July 11, 1927, the properties of South Shore Port Company were sold at a bankruptcy sale to William Quinby Wright, who thereafter assigned his interest to the three trustees, applicants herein.

The price bid by William Quinby Wright, which was the only bid, was \$42,320, and the properties were ordered sold at that price, subject to the outstanding mortgage notes of \$41,500, together with accrued interest thereon amounting to \$8,541.22.

The properties sold included all the properties of South Shore Port Company, consisting of the operative rights referred to, two Diesel-propelled motor ships, the *South Shore No. 1* and the *South Shore No. 2*, of a registered tonnage of 67 and 94, respectively; five 3½-ton Garford trucks, two 4-ton Garford trucks, two 1-ton Ford trucks, three 2½-ton Reliance trailers, materials and supplies and certain terminal property in Santa Clara County. An appraisal made in connection with the bankruptcy proceedings was filed as Exhibit No. 2 and shows the estimated fair value of the physical properties as \$79,254.41.

The new owners will, as stated, take over the property subject to the mortgage notes of \$41,500, together with unpaid interest. These notes are past due, having matured on February 6, 1925, but it appears that substantially all of them are held by the same parties who held the unsecured obligations of South Shore Port Company and for whom the trustees now will hold the properties, and the trustees feel assured that no attempt will be made to foreclose them. We believe that the holders of such notes should file with this Commission a stipulation wherein they agree not to institute a foreclosure proceeding, prior to March 1, 1928. Such stipulation would, of course, become of no effect once the notes are refunded.

ORDER.

Application having been made to the Railroad Commission for an order authorizing the transfer of operative rights, equipment and properties, a public hearing having been held before Examiner Geary, and the Railroad Commission being of the opinion that the application should be granted, as herein provided;

It is hereby ordered, that South Shore Port Company through A. A. Peters, as trustee in bankruptcy of said South Shore Port Company, be and it is hereby authorized to transfer, for \$42,320, the operative rights, equipment and properties referred to in the foregoing opinion, subject only to the outstanding mortgage notes of \$41,500, together with accrued interest thereon, to William Quinby Wright, Frank Chapman Willson and Godfred Theusen, as trustees, associates doing

business under the firm name and style of Bay Shore Freight Lines, upon the terms and conditions outlined in this application.

The authority herein granted is subject to the following conditions:

1. A. A. Peters, as trustee in bankruptcy of the properties of South Shore Port Company, shall unite, immediately, with William Quinby Wright, Frank Chapman Willson and Godfred Theusen, as trustees, associates doing business under the firm name and style of Bay Shore Freight Lines, in common supplement to the tariffs on file with the Commission by South Shore Port Company, applicant A. A. Peters, as trustee, on the one hand withdrawing and applicants Wright, Willson and Theusen as trustees, on the other hand accepting and establishing such tariffs and all effective supplements thereto.

2. A. A. Peters, as trustee in bankruptcy of the properties of South Shore Port Company, shall withdraw immediately all time schedules filed in the name of South Shore Port Company, and William Quinby Wright, Frank Chapman Willson and Godfred Theusen, as trustees, shall file immediately, in duplicate, time schedules covering the service heretofore given by South Shore Port Company, which time schedules shall be identical with those now on file with the Railroad Commission in the name of South Shore Port Company, or time schedules satisfactory to the Railroad Commission.

3. The rights and privileges, the transfer of which is herein authorized, shall not hereafter be transferred, assigned, leased or sold, or operations thereunder discontinued, unless the written consent of the Railroad Commission has first been secured.

4. No vessel or auto truck may be operated, under the rights herein authorized to be transferred, unless such vessel or auto truck is owned by Bay Shore Freight Lines or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

5. The price at which the transfer herein authorized is made shall not hereafter be urged before this Commission or other public body or court having jurisdiction as a measure of value of the operative rights, equipment and properties for the purpose of fixing rates, issuing stock or other securities or for any purpose other than this transfer.

6. The authority herein granted will become effective upon the filing of the stipulation referred to in the opinion which precedes this order.

Dated at San Francisco, California, this twentieth day of September, 1927.

DECISION No. 18822.

IN THE MATTER OF THE APPLICATION OF COACHELLA VALLEY
HOME TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION,
FOR AN ORDER AUTHORIZING THE FILING OF RATES.

Application No. 13718.

Decided September 20, 1927.

RATES—TELEPHONE UTILITY—To FILE.—Application granted.

BY THE COMMISSION.

ORDER.

Whereas, Coachella Valley Home Telephone and Telegraph Company, a corporation, engaged in the business of operating a telephone system in Coachella Valley, Riverside County, has made application to the Commission for authority to file certain rates for telephone service, alleging that said rates were in effect on April 10, 1912, and were incorrectly filed by applicant with the Commission on or about April 11, 1912, and that said rates have been in effect at all times from and after April 10, 1912, and are now in effect, and that the filing of said rates will not affect the amounts now being paid for telephone service by applicant's patrons; and

Whereas, it appears that applicant should be permitted to file rates for telephone service as set forth in Exhibit "A" attached hereto, and it appearing that this is not a matter in which a public hearing is necessary;

It is hereby ordered, that Coachella Valley Telephone and Telegraph Company be and it is hereby authorized to file with the Commission on or before October 1, 1927, as the effective rates for exchange telephone service those rates set forth in Exhibit "A" attached hereto and hereby made a part hereof.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twentieth day of September, 1927.

EXHIBIT "A."

EXCHANGE SERVICE SCHEDULE No. A-1.

Unlimited Exchange Service.

Applicable to all party line flat rate service within the townsite of Thermal and individual line service in Thermal and Coachella.

Rate.	Class of service	Rate per station per month			
		Business service		Residence service	
		Wall set	Desk set	Wall set	Desk set
Individual line station, Thermal-----		\$3 25	\$3 25	\$2 75	\$2 75
Eight-party line station-----		2 75	2 75	2 25	2 25
Extension (with or without bell)-----		*1 50	*1 50	*1 50	*1 50
Individual line station, Coachella-----		4 25	4 25	3 25	3 25

Conditions.

(a) Extension equipment at the above rates must be located in the same building as the primary station.

(b) A discount of twenty-five (25) cents will be allowed on all above rates except those marked with an (*) if payment is made on or before the tenth day of the month.

EXCHANGE SERVICE SCHEDULE No. A-5.**General Service.**

Applicable to suburban party line service within the exchange area but outside the Thermal and Indio primary rate areas.

Rate.	Class of service	Rate per station per month			
		Business service		Residence service	
		Wall set	Desk set	Wall set	Desk set
Suburban line station-----		\$2 75	\$2 75	\$2 25	\$2 25
Extension (with or without bell)-----		*1 50	*1 50	*1 50	*1 50

Conditions.

(a) A discount of twenty-five (25) cents will be allowed on all rates except those marked with an (*) if payment is made on or before the tenth day of the month.

DECISION No. 18823.

IN THE MATTER OF THE APPLICATION OF WM. L. GOVAN FOR AN ORDER AUTHORIZING SAID WM. L. GOVAN TO TRANSFER AND SELL AND J. E. HORGAN, A. P. CEANDER AND F. J. SHAIR TO ACQUIRE AND PURCHASE THE WATER SYSTEM SERVING CARNELIAN BAY, PLACER COUNTY, CALIFORNIA.

Application No. 13928.

Decided September 20, 1927.

TRANSFER—WATER UTILITY—NONRESIDENT OWNER.—Application to transfer water utility to nonresident owners, on condition that a resident manager for the property be designated, granted.

By THE COMMISSION.

ORDER.

Wm. L. Govan having made application to this Commission for authority to transfer for a consideration of \$2,350 the public utility water plant owned by him and M. E. Govan, his wife, at Carnelian Bay, Placer County, to J. E. Horgan, A. P. Ceander and F. J. Shair, who have joined in the application, and it appearing, after a field investigation, that this is not a matter in which a public hearing is necessary and that the application should be granted;

It is hereby ordered, that Wm. L. Govan and M. E. Govan, his wife, be and they are hereby authorized to transfer to J. E. Horgan, A. P. Ceander and F. J. Shair for the sum of \$2,350 that certain public utility water system supplying the consumers in Carnelian Bay, Placer County, as more particularly described in the application herein, subject to the following conditions:

1. The consideration for the transfer herein authorized shall not be urged before this Commission or any other public body as a finding of value for rate fixing or any purpose other than the transfer herein authorized.

2. The authority herein granted shall apply only to such transfer as shall have been completed on or before December 31, 1927, and a certified copy of the final instrument of conveyance shall be filed with this Commission by Wm. L. Govan and M. E. Govan, his wife, within thirty days from the date on which it is executed.

3. Within ten days from the date on which Wm. L. Govan and M. E. Govan, his wife, actually relinquish control and possession of the property herein authorized to be transferred, they shall file with this Commission a certified statement indicating the date upon which such control and possession were relinquished.

4. On or before the date on which Wm. L. Govan and M. E. Govan, his wife, actually relinquish control and possession of the property herein authorized to be transferred, the purchasers, J. E. Horgan, A. P. Ceander, and J. F. Shair, being residents of Nevada, shall designate, in writing, an agent, resident of the State of California, upon whom service of process may be made in all matters appertaining to control and regulation of the properties involved in this proceeding, said designation in writing to be filed with the Railroad Commission of the State of California.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this twentieth day of September, 1927.

DECISION No. 18827.

IN THE MATTER OF THE APPLICATION OF FRED A. MOSES AND
MRS. ANNA H. MOSES TO DISCONTINUE PUBLIC UTILITY WATER
SERVICE IN THE TOWN OF NEWARK, ALAMEDA COUNTY, CALI-
FORNIA.

Application No. 13731.

Decided September 23, 1927.

ABANDONMENT—WATER SERVICE—Application granted.

Mrs. Anna H. Moses, for Applicants.

BY THE COMMISSION.

OPINION.

This is an application by Fred A. Moses and Mrs. Anna H. Moses, who own and operate a small public utility water system supplying certain consumers in the town of Newark, Alameda County, California, requesting the Commission to authorize the discontinuance of further service.

The application alleges in effect that the water supply for the system is insufficient to properly provide the needs of the consumers; that the plant and equipment now require the expenditure of considerable money for rebuilding and replacing; that the owners no longer live in Newark and, for these reasons, can not afford to continue the operation of the utility. The Commission is requested to grant authority to discontinue the public utility service after allowing the consumers a reasonable time in which to secure water from other sources.

A public hearing in this matter was held before Examiner Satterwhite at Newark after all interested parties had been notified and given an opportunity to appear and be heard.

From the evidence, it appears that this water system was originally installed by Fred A. Moses about the year 1908. The water supply is obtained from a well from which the water is elevated by an electrically driven pump and stored in a 4000-gallon redwood tank from which distribution is made by gravity to twenty-four consumers through approximately 4500 feet of pipe, ranging from one inch to two inches in diameter.

The testimony shows that this utility urgently requires an additional water supply and storage facilities, together with certain other improvements, to properly provide for the present needs of the consumers and also to keep pace with the future demands of new consumers, all of which will require the expenditure of considerable money by applicants. However, water service may be obtained from the mains of the East Bay Water Company, which supplies adjoining territory and can furnish a better and more dependable water service to all of the consumers of this utility. This company stands willing to serve all of applicants' consumers at any time and, as there were no protests against permitting applicants to discontinue their public utility service, it appears that the request should be granted, contingent upon the present consumers receiving adequate water service from some other source.

ORDER.

Fred A. Moses and Anna H. Moses having made application as entitled above for authority to discontinue their public utility water business in the town of Newark, Alameda County, California, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises;

It is hereby ordered, that Fred A. Moses and Anna H. Moses be and they are hereby authorized to discontinue the service of water to their consumers in the town of Newark, in Alameda County, and thereafter stand relieved of all public utility obligations and liabilities heretofore incurred therewith, if and when arrangements have been made by said Fred A. Moses and/or Anna H. Moses, whereby all consumers now served by either or both of them have obtained an adequate water service from some other source, subject, however, to the following terms and conditions:

1. The authority hereby granted will become effective whenever the terms and conditions of this order have been fully complied with and shall continue only until the thirty-first day of December, 1927.

2. Fred A. Moses and/or Anna H. Moses shall not discontinue water service to any consumer now served by either or both of them until such consumer shall be receiving water from another source or shall be able to receive said service, if such consumer so desires.

3. If and when all of the terms and conditions of this order have been fully complied with, Fred A. Moses and/or Anna H. Moses shall file with this Commission an affidavit setting forth such fact and also giving the date or dates upon which service has been discontinued to each of the consumers now served, as provided herein.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-third day of September, 1927.

DECISION No. 18839.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, AND T. L. GATES, W. Z. McBRIDE AND SUSAN W. ENGLISH FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING PACIFIC GAS AND ELECTRIC COMPANY TO PURCHASE AND ACQUIRE, UPON THE TERMS AND CONDITIONS IN THIS APPLICATION SET FORTH, ALL THE ISSUED SHARES OF THE CAPITAL STOCK OF THE VACAVILLE WATER AND POWER COMPANY.

Application No. 13901.

Decided September 29, 1927.

TRANSFER—WATER AND POWER UTILITY—STOCK—To ISSUE.—Pacific Gas and Electric Company authorized to acquire from T. L. Gates, W. Z. McBride and Susan W. English outstanding stock of Vacaville Water and Power Company, and to issue in payment therefor \$175,000 par value of 6 per cent cumulative preferred stock.

C. P. Cutten, for Pacific Gas and Electric Company.

W. Z. McBride, for Vacaville Water and Power Company.

BY THE COMMISSION.

OPINION.

In this application the Pacific Gas and Electric Company asks permission to acquire all the outstanding stock (\$69,000 par value) of the Vacaville Water and Power Company and issue in payment therefor \$175,000 par value of its 6 per cent first preferred stock.

From Exhibit "A" it appears that T. L. Gates, W. Z. McBride and Susan W. English, owners of the outstanding stock of the Vacaville Water and Power Company, have agreed to sell the same to the Pacific Gas and Electric Company free and clear of all liens and encumbrances, for \$175,000 to be payable at the option of each of the vendors either entirely in cash or entirely in shares of the first preferred stock of the Pacific Gas and Electric Company at par or partly in cash and partly

in such preferred capital stock at par as may be designated by each of the vendors. It is of record that since the execution of the agreement filed as Exhibit "A," T. L. Gates, W. Z. McBride and Susan W. English have expressed their desire to receive in payment for their stock of the Vacaville Water and Power Company first preferred stock of the Pacific Gas and Electric Company.

As of December 31, 1926, the Vacaville Water and Power Company reports assets and liabilities as follows:

<i>Assets.</i>		
Fixed capital	-----	\$138,013 37
Electric	----- \$71,258 59	
Water	----- 66,754 78	
Cash	-----	3,008 13
Accounts receivable	-----	7,951 16
Materials and supplies	-----	2,342 50
Total assets	-----	\$151,315 16
<i>Liabilities.</i>		
Capital stock	-----	\$69,000 00
Consumers' deposits	-----	443 77
Depreciation reserve	-----	26,665 18
Surplus	-----	55,206 21
Total liabilities	-----	\$151,315 16

In Exhibit "C," prepared by J. T. Ryan, valuation engineer for Pacific Gas and Electric Company, the reproduction cost new of the properties of the Vacaville Water and Power Company as of August 1, 1927, was reported at \$209,593, segregated as follows:

Electric system	-----	\$80,664 00
Water system	-----	101,670 00
General capital	-----	21,699 00
Materials and supplies	-----	5,560 00
Total	-----	\$209,593 00

His testimony shows that an inventory was made of the properties of the Vacaville Water and Power Company and that thereafter the reproduction cost new of the properties as of August 1, 1927, was calculated. The testimony shows that no detailed study was made of the condition per cent of the properties of the Vacaville Water and Power Company. J. T. Ryan, however, explained that in general the properties were in as good a condition of repair as those of Pacific Gas and Electric Company. W. Z. McBride, general manager, also testified that the properties were in good operating condition.

The gross revenue of Vacaville Water and Power Company for the past five years has been reported as follows:

Year	<i>Electric</i>	<i>Water</i>	<i>Total</i>
1926	\$43,882 09	\$13,213 33	\$57,095 42
1925	42,361 34	12,515 40	54,876 74
1924	34,492 07	11,936 50	46,428 57
1923	31,480 89	11,340 83	42,821 72
1922	32,326 23	10,868 05	43,194 28

For the same period the Vacaville Water and Power Company reports the following amounts available for dividends:

1926	-----	\$16,918 46
1925	-----	19,820 96
1924	-----	13,553 55
1923	-----	9,954 68
1922	-----	12,621 37

As of December 31, 1926, Vacaville Water and Power Company had 972 electric and 523 water consumers.

A. F. Hockenbeamer, president of the Pacific Gas and Electric Company, testified that in negotiating for the purchase of the properties, greater consideration was given to the gross revenue of the company than to the amount which the company had available for dividends, for the reason that if the Pacific Gas and Electric Company acquired the stock of the Vacaville Water and Power Company, policies and practices of the Pacific Gas and Electric Company rather than those of the Vacaville Water and Power Company will, in the future, determine the amounts available for dividends. In his opinion the payment of \$175,000 for the stock in no way jeopardizes the investment of the stockholders of Pacific Gas and Electric Company.

His testimony further shows that it is the intention of the Pacific Gas and Electric Company at an early date to cause Vacaville Water and Power Company to transfer its properties to the Pacific Gas and Electric Company and as a matter of fact to operate such properties from and after the acquisition of the stock as an integral part of the Pacific Gas and Electric Company system. It is his opinion that through the consolidation of the properties an annual saving of at least \$3,000 in operating expenses can be effected.

For the time being the rates now charged by the Vacaville Water and Power Company will continue in effect. It is the intention, however, of the Pacific Gas and Electric Company to apply its rate schedules to the business of the Vacaville Water and Power Company and after it has completed the study of the rate situation, request this Commission to permit it to make such adjustment as may seem necessary to put into effect in the territory now served by the Vacaville Water and Power Company the rates which the Pacific Gas and Electric Company charges elsewhere. As said, until the purchaser asks permission to make any changes in the rates, the present rates will continue in effect.

The Vacaville Water and Power Company purchases the electric energy it sells at wholesale from the Pacific Gas and Electric Company. The territory served by the Vacaville Company is contiguous to the territory being served by Pacific Gas and Electric Company. The present owners are reticent to invest any more money in the property to extend the system or improve the service. The Pacific Gas and

Electric Company will on the other hand apply its extension rules, which are more liberal to the consumers than those of the Vacaville Company, and furnish the same type of service as elsewhere.

ORDER.

Pacific Gas and Electric Company having asked permission to acquire the outstanding stock of the Vacaville Water and Power Company and to issue in payment therefor \$175,000 par value of its 6 per cent preferred stock, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by the Pacific Gas and Electric Company and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted, as herein provided; therefore,

It is hereby ordered as follows:

1. Pacific Gas and Electric Company may acquire from T. L. Gates, W. Z. McBride and Susan W. English, or their successors, the outstanding stock (\$69,000) of Vacaville Water and Power Company and continue to own and hold such stock.

2. Pacific Gas and Electric Company may issue on or before November 15, 1927, to T. L. Gates, W. Z. McBride and Susan W. English, as fully paid, and as consideration for the stock to be acquired from them, 7000 shares of its 6 per cent cumulative first preferred capital stock of the par value of \$25 each of an aggregate par value of \$175,000.

3. The consideration being paid by Pacific Gas and Electric Company for such stock shall not be urged before this Commission as a measure of value of the properties of Vacaville Water and Power Company for any purpose other than the acquisition of the stock herein authorized.

4. Pacific Gas and Electric Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this twenty-ninth day of September, 1927.

DECISION No. 18840.

IN THE MATTER OF THE APPLICATION OF ERIKSON NAVIGATION
COMPANY TO ACQUIRE RIGHTS OF H. A. BALL AND FRED F. BALL
TO OPERATE VESSELS AND TO ISSUE NOTES.

Application No. 13983.

Decided September 29, 1927.

TRANSFER—OPERATIVE RIGHTS—CARRIER BY WATER—NOTES—TO ISSUE.—Erikson
Navigation Company authorized to purchase operative rights of H. A. and
Fred F. Ball, and to issue notes in payment for operative rights and equipment.

Sanborn and Roehl and DeLancey C. Smith, by *H. H. Sanborn*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application Erikson Navigation Company asks permission to acquire the operative rights of H. A. Ball and Fred F. Ball and to issue notes in the amounts and for the purposes hereinafter set forth.

A public hearing in the matter was held before Examiner Fankhauser. Although notice of the hearing was given by publication, no one appeared in protest to the granting of the application.

It is of record (Exhibit "D") that on November 15, 1926, Henry A. Ball and Fred F. Ball signed an agreement under the terms of which they agreed to sell to the Erikson Navigation company all of their right, title and interest in and to *Barge No. 3*, *Barge No. 4* and *Barge No. 5*, including all rights of whatever kind and character they had to operate tugs, barges and other vessels as a common carrier of property, or otherwise. The consideration to be paid is \$15,500, payable as follows: \$1,250 upon execution of agreement and the balance in monthly installments of \$300 each. The present application was filed on August 10th. It will be noted that H. A. Ball and Fred F. Ball do not ask permission to sell their properties nor have they joined in the application. The agreement (article six) provides that the parties will, from time to time, join in any proceedings or applications before any public authority in the State of California or elsewhere, necessary in the judgment of Erikson Navigation Company to effectuate the purpose of the agreement. It is alleged that neither Henry A. Ball nor Fred F. Ball are available to sign the application. In our opinion the properties which Henry A. Ball and Fred F. Ball have agreed to sell can not be sold without permission from the Railroad Commission. If the agreement to sell has already been executed, it is inoperative until authorization is secured from this Commission. While we will authorize this sale, the authority herein granted to execute such agreement will not become effective until Henry A. Ball and Fred F. Ball or their representatives duly authorized to act for them have either joined in the application

or furnished us with an affidavit showing that they will enter into a proper agreement covering this proposed sale.

On May 27, 1919, Fred F. Ball filed with the Railroad Commission a tariff entitled as follows:

FRED F. BALL

Barging and Towing, Antioch, Calif.

LOCAL FREIGHT TARIFF No. 2

Cancels Local Freight Tariff No. 1

Showing regular Haul Rates and Minimum Special Trip Rates Between
ALL POINTS ON THE SACRAMENTO AND SAN JOAQUIN RIVERS
AND THEIR TRIBUTARIES AND POINTS ON
SAN FRANCISCO BAY

The tariff does not designate in particular any points between which Fred F. Ball operates. The rates charged are based on the distance of the haul.

By Decision No. 13566, dated May 17, 1924, in Application No. 10001, the Railroad Commission declares:

The Railroad Commission of the State of California hereby declares that present and future public convenience and necessity require the operation by the Erikson Navigation Company of only such boats and barges as are hereinafter specifically set forth, for the transportation of freight, for compensation, between all points on San Francisco, San Pablo and Suisun bays and tributaries and upon all rivers, waterways and sloughs of the Sacramento and San Joaquin valleys serving the same points or landings as are at present served by the Estate of John Erikson, deceased, the rates to be charged for such service and the rules and regulations governing the same to be the same as those of the Estate of John Erikson, deceased, now on file with the Railroad Commission. The boats and barges which the Erikson Navigation Company may operate under the authority herein granted are as follows:

Towboat *Erikson No. 15*, 110 horsepower gas engine; gross tons, 13; net tons, 10.

Towboat *Mt. Eden*, 80 horsepower gas engine; gross tons, 12.16; net tons, 8.27.

Towboat *Mildred*, 30 horsepower gas engine.

Gasoline Steamer *Crockett*, 25 horsepower gas engine; gross tons, 62; net tons, 52.

Gasoline steamer *H. Eppinger*, 35 horsepower gas engine; gross tons, 96; net tons, 71.

Gasoline steamer *Montezuma*, 85 horsepower gas engine; gross tons, 73.3; net tons, 69.24.

Gasoline steamer *Albertine*, 50 horsepower gas engine; gross tons, 50.74; net tons, 48.21.

Barge *E-2*, length, 110 feet; beam, 30 feet; depth, 7 feet, 6 inches.

Barge *Pyramid*, length over all, 160 feet; beam moulded, 37 feet; depth moulded, 6 feet.

Scow schooner barge *St. Thomas*, length, 71.4 feet; beam, 25 feet; depth, 5.5 feet; gross tons, 62.47; net tons, 59.36.

The above are the only vessels which the Erikson Navigation Company is now authorized to operate.

It is urged that upon the acquisition of the operative right of Fred F. Ball the Erikson Navigation Company will possess the right to operate vessels between all points designated on the tariff of Fred F.

Ball. It should be noted, however, that the Erikson Navigation Company will obtain no greater right than that possessed by Fred F. Ball, if it acquires the operative right of said Fred F. Ball, and that the charges made for any service rendered by virtue of having acquired said operative right must, until a change is authorized by the Commission, be at the rates which Fred F. Ball has on file.

Coming now to the request of Erikson Navigation Company to issue notes, it appears that under the contract with Henry A. Ball and Fred F. Ball, the corporation agrees to pay for the operative rights and the three barges the sum of \$15,500. Of this sum, \$1,250 was paid on the execution of the agreement and the balance is payable in monthly installments of \$300, starting December 15, 1926, with interest at the rate of 7 per cent per annum. In addition, the corporation found it necessary to install a new motor in one of its launches and accordingly on December 21, 1925, entered into an agreement with Atlas Imperial Engine Company to purchase, for \$10,000, a 125-horsepower, 4-cylinder Diesel engine. Of the purchase price, \$1,000 was allowed on an old engine, \$500 was payable on July 1, 1926, and the balance is payable in monthly installments of \$350, starting August 1, 1926, with interest at the rate of 6 per cent per annum.

Both agreements provide for final payments later than one year after the dates of execution and therefore in our opinion are evidences of indebtedness coming within the provisions of section 52 of the Public Utilities Act. Applicant, Erikson Navigation Company, did not obtain the permission of the Commission to execute these evidences of indebtedness, but has made payments on both. There is now \$11,550 due under the agreement with Henry A. Ball and Fred F. Ball and \$3,600 under the agreement with Atlas Imperial Engine Company. Officers of Erikson Navigation Company testified that they did not know that the execution of the agreements had to be authorized by the Commission until their attention was called to it by the Commission and that thereafter they took immediate steps to have the above entitled application filed.

ORDER.

- Application having been made to the Railroad Commission for an order authorizing the transfer of operative rights and the issue of notes, a public hearing having been held, and the Railroad Commission being of the opinion that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the notes is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Erikson Navigation Company be and it is hereby authorized to acquire the operative right and equipment of Henry A. Ball and Fred F. Ball, referred to in Exhibit "D" and to issue to said Henry A. Ball and Fred F. Ball its promissory note in the sum of not exceeding \$15,500, provided that the authority herein granted will not become effective until Henry A. Ball and Fred F. Ball have joined in the application, or until they or their duly authorized representatives have filed an affidavit showing that they will sell the properties described in said Exhibit "D" for the consideration therein mentioned, nor until the Commission has entered its supplemental order authorizing the sale of said properties.

It is hereby further ordered, that Erikson Navigation Company be and it is hereby authorized to issue to Atlas Imperial Engine Company its promissory note for not exceeding \$9,000 payable in monthly installments of \$350, with interest at the rate of 6 per cent per annum, for the purpose of financing in part the cost of acquiring the equipment referred to in Exhibit "E."

The authority herein granted is subject to the following conditions:

1. Fred F. Ball, or his duly authorized representative, shall unite, immediately, with Erikson Navigation Company in common supplement to the tariffs on file with the Commission, Fred A. Ball, on the one hand, withdrawing and Erikson Navigation Company, on the other hand, accepting and establishing such tariffs and all effective supplements thereto.

2. Fred F. Ball, or his duly authorized representative, shall withdraw immediately all time schedules filed in his name, and Erikson Navigation Company shall file immediately, in duplicate, time schedules covering the service heretofore given by Fred F. Ball, which time schedules shall be identical with those now on file with the Railroad Commission in the name of Fred F. Ball, or time schedules satisfactory to the Railroad Commission.

3. The rights and privileges, the transfer of which is herein authorized, shall not hereafter be transferred, assigned, leased or sold, or operations thereunder discontinued, unless the written consent of the Railroad Commission has first been secured.

4. The price at which the transfer herein authorized is made shall not hereafter be urged before this Commission or other public body or court having jurisdiction as a measure of value of the operative rights, equipment and properties for the purpose of fixing rates, issuing stock or other securities or for any purpose other than this transfer.

5. Erikson Navigation Company shall keep such record of the issue of the notes herein authorized as will enable it to file within thirty days after such issue a verified report, as required by the Railroad Commis-

sion's General Order No. 24, which order, in so far as applicable, is made a part of this order.

6. The authority herein granted to issue notes is subject, among others, to the condition that Erikson Navigation Company pay the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

7. Except as otherwise stated herein, the authority granted by this order will become effective twenty days after the date hereof.

Dated at San Francisco, California, this twenty-ninth day of September, 1927.

DECISION No. 18843.

HERBERT B. HOWARD

vs.

SOUTHERN CALIFORNIA TELEPHONE COMPANY, A CORPORATION,
AND THE PACIFIC TELEPHONE AND TELEGRAPH COMPANY, A
CORPORATION.

Case No. 2416.

Decided September 29, 1927.

SERVICE—TELEPHONE UTILITY—EXCHANGE AREA—To MODIFY—DISSENTING OPINION.—Complaint dismissed as not stating a cause of action entitling complainant to relief. Commissioner Carr dissents.

BY THE COMMISSION.

ORDER OF DISMISSAL.

Herbert B. Howard, complainant herein, requests that the Railroad Commission issue an order restraining Southern California Telephone Company, defendant, from removing complainant's telephone service pending the termination of this complaint. It appears that defendant company, through error, established at complainant's residence, located in the Glendale exchange area, a telephone service from its Los Angeles exchange and for which it has no legal rate.

It appears that the granting of complainant's request would result in a discrimination in favor of complainant and against others similarly situated, who may desire telephone service from the Los Angeles exchange; and it further appears that the enlargement of the Los Angeles exchange area may not be made upon a petition signed by this one complaining subscriber. The complaint, therefore, does not state a cause of action entitling complainant to any relief and should, therefore be dismissed.

It is therefore hereby ordered, that the above entitled complaint (Case No. 2416) be and it is hereby dismissed.

Dated at San Francisco, California, this twenty-ninth day of September, 1927.

EZRA W. DECOTO,
C. L. SEAVEY,
LEON O. WHITSELL,
Commissioners.

I dissent. The complainant is entitled to a hearing, inasmuch as the Commission has jurisdiction of the formal complaint here made to change the exchange boundaries.

W. J. CARR.

DECISION No. 18844.

IN THE MATTER OF THE APPLICATION OF SOUTHWESTERN GAS AND FUEL COMPANY AND TWIN CITIES GAS COMPANY FOR AUTHORITY FOR THE SOUTHWESTERN GAS AND FUEL COMPANY TO PURCHASE THE PROPERTIES OF THE TWIN CITIES GAS COMPANY AND FOR THE LATTER COMPANY TO SELL ITS PROPERTIES AND FOR AUTHORITY FOR THE SOUTHWESTERN GAS AND FUEL COMPANY TO ISSUE SHARES OF ITS COMMON STOCK OF THE PAR VALUE OF FORTY THOUSAND DOLLARS AND ITS FIRST MORTGAGE BONDS AT A FACE VALUE OF ONE HUNDRED FOURTEEN THOUSAND FIVE HUNDRED DOLLARS.

Application No. 13994.

Decided September 29, 1927.

TRANSFER—GAS UTILITY—STOCK AND BONDS—To ISSUE.—Twin Cities Gas Company authorized to sell its properties to Southwestern Gas and Fuel Company, and to issue \$40,000 of common stock and \$79,500 of first mortgage 6 per cent twenty-year bonds in payment therefor, and \$35,000 of such bonds at not less than 90 per cent of face value to pay for improvements.

Gibson, Dunn and Crutcher by S. M. Haskins, for Applicants.

BY THE COMMISSION.

OPINION.

Twin Cities Gas Company asks permission to sell its properties to Southwestern Gas and Fuel Company, which asks permission to acquire said properties, issue \$40,000 of stock and \$114,500 of bonds for the purposes hereinafter stated, and execute a mortgage or deed of trust to secure the payment of the bonds.

Twin Cities Gas Company is engaged in selling gas in Banning, Beaumont, Hemet and San Jacinto. As of June 30, 1927, it had 866 meters connected and in use and 339 services not in use. The company has an authorized stock issue of \$25,000 and an authorized bond issue of \$100,000. On June 30, 1927, it reports \$25,000 of stock, \$79,500 of bonds and \$15,245.22 of notes outstanding. The notes are payable to J. M. Berkeley, who owns substantially all of the company's outstanding stock. All of the moneys realized from the issue of the notes except \$1,240.16 were used for construction purposes. The \$1,240.16

was expended for materials and supplies, taxes and insurance. J. M. Berkeley has agreed to accept at par \$15,000 par value of stock of Southwestern Gas and Fuel Company in payment for a like amount of the notes issued to him by Twin Cities Gas Company.

The Southwestern Gas and Fuel Company was organized on or about May 19, 1927, with an authorized capital stock of \$250,000 divided into 2500 shares of \$100 each. The company asks permission to issue \$40,000 of the stock. If authorized, it will issue \$25,000 of the stock in exchange for the \$25,000 of outstanding stock of Twin Cities Gas Company and \$15,000 in part payment of the notes to which reference has been made.

Until recently the Twin Cities Gas Company has been generating and distributing artificial gas. It now obtains natural gas from the Southern California Gas Company. To distribute the natural gas the company or its predecessor has expended or will expend approximately \$37,730 for the following purposes (Exhibit No. 3):

Installing 75,000 feet of 3-inch pipe from Beaumont Gas Works to San Jacinto or Hemet Gas Works-----	\$28,325 00
Installing 5000 feet of 4-inch pipe from end of Southern California Gas Company line at city limits of Beaumont to Beaumont Gas Works--	3,965 00
Yard piping and high pressure meters-----	1,000 00
Organization expenses incidental to organizing Southwestern Gas and Fuel Co. and transferring to such company the properties of Twin Cities Gas Co. including legal, state and Railroad Commission expenses, estimated-----	3,500 00
Interest during construction-----	540 00
Engineering, estimated-----	400 00
Total -----	\$37,730 00

The pipe lines have been installed and are in service. On August 19th Twin Cities Gas Company began to distribute natural gas in Beaumont and Banning and on August 23d in Hemet and San Jacinto. Southwestern Gas and Fuel Company asks permission to issue \$114,500 of first mortgage 6 per cent twenty-year bonds. Of the bonds, \$79,500 will be issued in exchange for a like amount of bonds of Twin Cities Gas Company and \$35,000 sold at 90 and the proceeds used to pay in part the cost of the above mentioned new properties and expenses, or pay debts incurred on account of such expenditures.

Upon the completion of the construction to which reference has been made and the transfer of the properties, Southwestern Gas and Fuel Company will become the owner of property representing, according to Exhibit No. 3, an investment of \$165,806.32 against which it would have outstanding \$154,000 of stocks and bonds. It is the opinion of J. H. Berkeley that with the introduction of natural gas the company will be successful in materially increasing the sale of gas and thus increase its revenues. The operating revenues are estimated at \$62,787 and the operating expenses, including depreciation and taxes, at

\$53,440.89, leaving a gross income available for bond interest of \$9,346.11.

The company has filed with the Commission a copy of its proposed mortgage or deed of trust (Exhibit "E"). We have examined the proposed trust indenture, which will secure the payment of an authorized bond issue of \$1,000,000. After the initial issue of bonds, to wit, the \$114,500 authorized by the order herein, the trustee may certify additional bonds in an amount equal to 75 per cent of the actual cost or the fair value (whichever is less) of properties acquired. The trust indenture should be amended so that none of the changes which are now permitted to be made with the consent of the holders of three-fourths in principal amount of all the bonds outstanding, may be made without the consent of the holders of at least 80 per cent of the bonds outstanding. It should further be understood that by authorizing the execution of the mortgage, the Commission will not be under any obligation to authorize the issue of bonds up to 75 per cent of the cost or reasonable value of property acquired, it being the policy of the Commission to allow not to exceed 60 per cent of such cost or reasonable value except under extraordinary conditions.

ORDER.

Twin Cities Gas Company having applied to the Railroad Commission for permission to sell its properties to Southwestern Gas and Fuel Company and Southwestern Gas and Fuel Company having asked permission to purchase said properties and to issue \$40,000 of stock and \$114,500 of bonds and execute a mortgage or deed of trust to secure the payment of such bonds, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of the stocks and bonds herein authorized is reasonably required by Southwestern Gas and Fuel Company and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that this application should be granted as herein provided; therefore,

It is hereby ordered, as follows:

1. Twin Cities Gas Company may sell all its properties to the Southwestern Gas and Fuel Company pursuant to the terms and conditions of the agreement filed in this proceeding as Exhibit "D."

2. Southwestern Gas and Fuel Company may acquire and operate the properties of Twin Cities Gas Company and issue in payment therefor \$40,000 of common stock, \$79,500 of first mortgage 6 per cent twenty-year bonds, said stock and bonds to be issued pursuant to the terms and conditions of the agreement filed in this proceeding as Exhibit "D."

3. Southwestern Gas and Fuel Company may issue and sell on or before December 31, 1927, at not less than 90 per cent of their face value and accrued interest \$35,000 of 6 per cent first mortgage twenty-year bonds and use the proceeds to pay for the improvements referred to in the foregoing opinion or to pay indebtedness incurred to pay for such improvements.

4. Southwestern Gas and Fuel Company may execute a mortgage or deed of trust substantially in the same form as the mortgage or deed of trust filed in this proceeding and marked Exhibit "E," provided said mortgage or deed of trust is modified as indicated in the foregoing opinion; and provided, further, that the authority herein granted to execute said mortgage or deed of trust is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said mortgage or deed of trust as to such other legal requirements to which said mortgage or deed of trust may be subject.

5. Southwestern Gas and Fuel Company shall, within thirty days after the execution of the mortgage or deed of trust referred to herein, file with the Commission a certified copy of such instrument.

6. The authority herein granted will become effective when Southwestern Gas and Fuel Company has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$35.

7. Southwestern Gas and Fuel Company shall keep such record of the issue, sale and delivery of the stock and bonds herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-ninth day of September, 1927.

DECISION No. 18857.

IN THE MATTER OF THE APPLICATION OF PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION, FOR AUTHORITY TO ABANDON SERVICE AND REMOVE ITS TRACKS ON ITS URBITA SPRINGS LINE, PARTLY IN THE CITY OF SAN BERNARDINO AND PARTLY IN THE COUNTY OF SAN BERNARDINO, CALIFORNIA.

Application No. 13675.

Decided September 30, 1927.

ABANDONMENT—SERVICE—STREET RAILWAY.—Application granted.

C. W. Cornell, for Pacific Electric Railway Company.
Mrs. Sarah N. Kohn, in propria persona.
Mrs. Elizabeth Felton, in propria persona.

Mrs. A. W. Williamson, in propria persona.

Mrs. Peter Scaranella, in propria persona.

H. J. Hendricks, in propria persona.

WHITSELL, *Commissioner.*

OPINION.

By this application, the Pacific Electric Railway Company seeks permission to abandon service and remove its tracks on its Urbita Springs line, partly in the city of San Bernardino and partly in the county of San Bernardino, California. A public hearing was held in this matter at San Bernardino, June 23, 1927.

The line in question forms a part of the local street railway operations of applicant in and near the city of San Bernardino. Service at the present time consists of a single car operated on a thirty-minute headway throughout the day from 6 a. m. to 12 midnight. The line is operated from the business district of the city of San Bernardino, at Third and E streets, southerly along E street to Mill street, a distance of approximately 4500 feet, thence in a southwesterly direction a distance of approximately 2700 feet to the terminus of the line at Pickering Park, known also as Urbita Springs. The first 4500 feet of the line as described is located within the city of San Bernardino, while the last 2700 feet is in the unincorporated portion of San Bernardino County, but a short distance east of the city boundary. The entire line is operated under franchise rights in and along public highways.

Applicant at present operates a line from San Bernardino to Riverside by way of Colton which parallels the line herein sought to be abandoned throughout its entire length. On the San Bernardino-Riverside line, service is operated throughout the day on a generally hourly service with forty-minute service in the morning and evening rush hours.

Although notice of hearing in this matter was sent to the city council of the city of San Bernardino and the board of supervisors of the county of San Bernardino, no one representing these bodies appeared to protest the granting of the application.

Evidence introduced at the hearing through applicant's witnesses shows that the line is now, and has been for some years past, operated at an actual out-of-pocket loss. Statement of operating income and expense shows, for the year 1926, an operating revenue of \$6,648.15 with an approximate out-of-pocket operating expense of \$7,835.98, leaving a net loss from railroad operations of \$1,187.83. After payment of taxes, this loss is further increased to \$1,692.40.

It appears that the line (which as mentioned above, is located in and along public highway) will soon have to be reconstructed at an estimated cost of \$63,000, due to improvements contemplated by the political subdivisions.

Travel counts were introduced in detail for the period May 15 to June 15, 1927, and a summary of travel by months is in the record for the period January 1, 1926, to May 1, 1927. These counts indicate that very little traffic is handled over the line except during the month of February, when the annual Orange Show is held at the fair grounds located on this line at Mill street. Picnics held at this park during the summer months furnish some additional increase in traffic for this line.

O. A. Smith, passenger traffic manager, for applicant, testified that if the application was granted, transfers would be issued between the San Bernardino-Riverside line and the San Bernardino local lines for points as far south as Pickering Park. He testified also that service on the San Bernardino-Riverside line would be increased whenever necessary to meet the demands of the traveling public, particularly school children and patrons of the annual Orange Show.

The only evidence introduced to oppose the granting of this application was that offered by a few property owners along the line who objected to the reduced service.

From the evidence introduced, it appears that it would be unreasonable to require continuance of operation of this line which results in an out-of-pocket loss from operation of approximately \$1,700 a year. In addition, the expenditure of a substantial sum to rehabilitate the line would place an unreasonable burden on this utility and its other patrons. It is, therefore, recommended that the application be granted.

ORDER.

Pacific Electric Railway Company, a public utility corporation, having applied to this Commission for authority to abandon service and remove its tracks on its Urbita Springs line, partly in the city of San Bernardino and partly in the county of San Bernardino, California, a public hearing having been held at which time evidence was adduced and the matter submitted and it now being ready for a decision, therefore

It is hereby found as a fact, that public convenience and necessity for this service does not justify the loss that would be sustained through the continued operation of the Urbita Springs line of the Pacific Electric Railway Company, which is operated partly in the city of San Bernardino and partly in the county of San Bernardino, California, and basing an order upon this fact and other facts contained in the opinion preceding this order;

It is hereby ordered, that authority be and the same is hereby given to the Pacific Electric Railway Company, a corporation, to abandon service and remove its tracks on its Urbita Springs line, partly in the city of San Bernardino and partly in the county of San Bernardino, at a location described as follows:

Approximately 7685 feet of single track street railway from the intersection of E and Third streets, westerly on E street to the intersection of E street, Mill street and Colton avenue, thence northwesterly on Colton avenue to end of line; together with two spur tracks extending southerly therefrom, one at Mill street, 355 feet long, and one near Rialto avenue, 396 feet long, and as shown in yellow lines on the map—C. E. H. 10313, dated January 7, 1927, and attached to the application subject, however, to the following conditions:

(1) Applicant shall restore the street to the condition of the existing paving installed at the time of removal of tracks.

(2) Service shall not be abandoned until on and after October 1, 1927; *provided, however*, that ten days' notice of such abandonment shall be given the public by notices posted in the cars and principal stations along such line.

(3) That applicant continue in effect fares and transfer privileges within San Bernardino identical with those shown on 16th revised page 17 of Local Passenger Tariff No. 816, C. R. C. No. 1000.

The foregoing opinion and order are hereby found to be the opinion and order of the Railroad Commission of the State of California.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, the thirtieth day of September, 1927.

DECISION No. 18858.

IN THE MATTER OF THE APPLICATION OF F. J. COULTER, AS AGENT FOR PACIFIC COAST MOTOR COACH COMPANY, A CORPORATION, FOR THE ESTABLISHMENT OF LOCAL FARES AND ELIMINATION OF CERTAIN FARE POINTS AS HEREIN SET FORTH.

Application No. 13921.

Decided September 30, 1927.

RATES—AUTO STAGES—TO ADJUST.—Application granted to establish one-way and round-trip fares between Newport Beach and San Juan Capistrano and intermediate points.

Norman H. Robotham, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application filed July 8, 1927, by the Pacific Motor Coach Company for authority under the statute to adjust the one way and round-trip passenger fares at points between Newport Beach and San Juan Capistrano, as set forth in Exhibit A and as amended, attached to and made a part of the application. The proposed one-way fares

will be on the basis of 3.6 cents per mile and the round-trip fares 85 per cent of two one-way fares. This adjustment will bring about both increases and reductions, there being more reductions than increases.

A public hearing was held before Examiner Geary at Laguna Beach September 7, 1927, and the proceeding having been submitted is now ready for our opinion and order.

A number of exhibits were introduced showing the present and proposed fares, a travel check of passengers, and letters endorsing the proposed adjustments. There was testimony from representatives of the Laguna Beach Merchants' Association, Laguna Beach Chamber of Commerce, Laguna Beach Realty Board and Newport Chamber of Commerce, all in favor of granting the application. There were no appearances in opposition.

Recently there has been a heavy increase in the population and in real estate and building activities at the points on the ocean front designated as Laguna Cliffs, Laguna Beach and Arch Beach, and these three communities have now been incorporated into a sixth class city known as Laguna Beach, resulting in a municipality five miles long and six blocks wide, with approximately one-fourth of this total distance within the old limits of Laguna Cliffs, one-fourth within the old Laguna Beach, and one-half within Arch Beach. In this territory there is now a 5-cent fare at the north and south ends of the district and a 10-cent fare covering the entire distance now embraced within the city of Laguna Beach. The evidence shows that the 5-cent fare districts are very little patronized and that the local service is performed at a loss. All of the witnesses testified that the community would be better served with a 10-cent fare covering the entire city. From Newport Beach it is proposed to reduce the fare to Port Orange from 15 cents to 10 cents; to Barnes' Orchard from 95 cents to 85 cents; and to San Juan Capistrano from \$1 to 90 cents. Applicant expects that the adjustments, bringing about many reductions, will increase travel and assist in putting the company on a paying basis, which has not been the fact during the pioneer period before the highway was constructed and the communities commenced to grow.

We conclude and find upon this record that the one-way and round-trip passenger fares as set forth in amended Exhibit "A" attached to and made part of the application, are just and reasonable fares. The application will be granted.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the

opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the Pacific Coast Motor Coach Company be and it is hereby authorized to establish within twenty days from the date hereof the one-way and round-trip fares for application between Newport Beach and San Juan Capistrano and the intermediate points, as set forth in amended Exhibit "A" attached to and made part of the application.

Dated at San Francisco, California, this thirtieth day of September, 1927.

DECISION No. 18859.

PAJARO VALLEY VINEGAR COMPANY, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 2400.

Decided September 30, 1927.

RATES—STEAM RAILROAD—VINEGAR—REPARATION.—Reparation awarded in the amount of all charges collected in excess of 19 cents per 100 pounds for transportation of seven tank-carloads of vinegar from Watsonville to Hayward, October 4 to December 17, 1926.

BY THE COMMISSION.

Complainant, a corporation organized under the laws of the State of California, with its principal place of business at Watsonville, is engaged in the manufacture of cider and vinegar. By complaint filed August 17, 1927, it alleges that the rate charged on seven carloads of vinegar shipped in tank cars from Watsonville to Hayward during the period from October 4 to December 17, 1926, was unjust and unreasonable to the extent it exceeded a rate of 19 cents.

Reparation only is sought. Rates are in cents per 100 pounds.

Charges were assessed and collected on the basis of twenty-five cents, the lawfully applicable fifth-class rate shown in defendant's Tariff 711-C, C. R. C. No. 2843. Effective May 28, 1927, defendant voluntarily established a commodity rate of 19 cents from and to the points involved. Complainant bases its plea for reparation upon the rate published effective May 28, 1927.

At the time the shipments involved in this proceeding moved, defendant maintained a rate of 16 cents on vinegar, carload, in packages from Aptos, a point beyond Watsonville, to Hayward; however, this rate was not applicable on vinegar in tank cars.

The rate upon which reparation is sought is reasonable and compares favorably with that applicable on shipments made in packages.

Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment, therefore, under the issues as they now stand, a formal hearing will not be necessary.

Upon consideration of all the facts of record, we are of the opinion and find that the rate of 25 cents charged was unreasonable to the extent it exceeded the subsequently established rate of 19 cents. We further find that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Southern Pacific Company, be and it is hereby authorized and directed to pay unto complainant, Pajaro Valley Vinegar Company, of Watsonville, California, all charges it may have collected in excess of 19 cents per 100 pounds on the shipments involved in this proceeding and forwarded from Watsonville to Hayward during the period from October 4 to December 17, 1926.

Dated at San Francisco, California, this thirtieth day of September, 1927.

DECISION No. 18860.

PAN AMERICAN PETROLEUM COMPANY, A CORPORATION,
vs.
PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION.

Case No. 2398.

Decided September 30, 1927.

RATES—ELECTRIC RAILROAD—CLAY—REPARATION.—Reparation awarded in the amount of all charges collected in excess of $3\frac{1}{4}$ cents per 100 pounds on shipments of clay from Los Angeles to Watson, February 18, 1927, to March 16, 1927.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the State of California, with its principal place of business at Los Angeles, is

engaged in producing, refining and marketing petroleum oils and petroleum products. By complaint filed August 16, 1927, it is alleged that the rate charged on nine carloads of clay, moved from Los Angeles to Watson during the period from February 18, 1927, to March 16, 1927, inclusive, was unreasonable to the extent it exceeded the subsequently established rate of $3\frac{1}{2}$ cents per 100 pounds.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

Charges were assessed and collected on the basis of 6 cents, the lawfully applicable rate, shown in Pacific Electric Railway Company's Tariff 120-C, C. R. C. 289. Effective April 21, 1927, defendant voluntarily established a rate of $3\frac{1}{2}$ cents from and to the points involved. Complainant bases its plea for reparation upon the lower rate subsequently established.

The rates and earnings shown in the following table and applicable on clay for distances comparable with that from Los Angeles to Watson are taken from a statement submitted by complainant:

<i>From</i>	<i>To</i>	<i>Rate</i>	<i>Miles</i>	<i>Earnings per ton mile, cents</i>
Los Angeles-----	Watson -----	\$0 06†	15.8	7.595
Los Angeles-----	Watson -----	03½*	15.8	4.430
Whittier Junction-----	Los Angeles-----	02½	11.0	4.545
Gypsum -----	Riverside -----	03½	23.0	3.043
Gypsum -----	Colton -----	03½	30.0	2.333
Chester -----	Riverside -----	02½	19.0	2.632
Corona -----	Riverside -----	02½	14.0	3.571

† Rate charged.

* Rate sought.

The rate upon which reparation is sought compares favorably with rates on the same commodity for equidistant hauls from and to other points in southern California.

Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate of 6 cents charged was unreasonable, to the extent it exceeded the subsequently established rate of $3\frac{1}{2}$ cents. We further find that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Pacific Electric Railway Company, be and it is hereby authorized and directed to refund to complainant, Pan American Petroleum Company of Los Angeles, California, all charges it may have collected in excess of $3\frac{1}{2}$ cents per 100 pounds on the shipments involved in this proceeding and forwarded during the period from February 18 to March 16, 1927, inclusive, from Los Angeles to Watson, California.

Dated at San Francisco, California, this thirtieth day of September, 1927.

DECISION No. 18861.

VALLEJO ELECTRIC LIGHT AND POWER COMPANY, A CORPORATION,
vs.
GREAT WESTERN POWER COMPANY OF CALIFORNIA, A CORPORATION.

Case No. 2371.

Decided September 30, 1927.

SERVICE—ELECTRIC UTILITY—TERRITORIAL LIMITS.—Holding that service to the toll house of the Carquinez bridge by Great Western Power Company of California is a necessary adjunct of the service to the bridge, which is within the territorial limits of the defendant corporation, the Commission dismisses the complaint.

Devlin and Brookman, by *Frank R. Devlin*, for the Complainant.
Chaffee E. Hall, for the Defendant.

LOUTTIT, *Commissioner*.

OPINION.

Vallejo Electric Light and Power Company, complainant, asks the Commission to make its order directing Great Western Power Company of California to cease and desist from rendering electric service to the toll house used in connection with the operation of Carquinez bridge owned and operated by the American Toll Bridge Company.

A hearing in this matter was held at San Francisco on August 18, 1927.

This Commission has heretofore established the territorial limits within which Vallejo Electric Light and Power Company may serve and has limited the extent to which Great Western Power Company of California may serve within said territorial limits. One of the boundaries of the territory of Vallejo Company is along the channel of

Carquinez Straits across which the Carquinez bridge has recently been built. It is of record that the Vallejo Company is alone authorized to serve in the immediate vicinity of the north abutment of Carquinez bridge, and that it is without authority to serve in the vicinity of the south abutment of said bridge. No question has been raised as to the right of Great Western Power Company to serve in the vicinity of the south abutment of Carquinez bridge, and for the purpose of this proceeding it may be assumed that Great Western Power Company has such right.

The toll house, service to which is under dispute in this proceeding, is located approximately 200 feet north of said north abutment, both toll house and Carquinez bridge being the property of American Toll Bridge Company.

Although service to the bridge proper is not made an issue in this proceeding, complainant's position is that defendant has no right to render any service used on that portion of the bridge situate within the boundary line of the Vallejo Company. The boundary line need not here be defined, it being clearly evident that a portion of the bridge structure lies within the territorial limits established for the Vallejo Company, and outside of the area in which Great Western Power Company may serve.

It appears that American Toll Bridge Company owns its own circuit for distributing electric energy at both ends of and along said bridge, and that service might accordingly be taken with equal facility either from Great Western Power Company or from Vallejo Electric Light and Power Company. The bridge company has elected to deal with Great Western Power Company, receiving energy at a metering point located near the south abutment of the bridge. A portion of such energy so delivered after being transferred over the bridge company's own lines is used at the toll house. It is this service that Vallejo Electric Light and Power Company protests, although the Bridge Company's electric facilities lie wholly upon their own property.

As I see this matter the toll house is a necessary adjunct to the bridge, and electric service to the toll house and to the bridge proper may reasonably be considered as one complete service if the consumer so desires. Where a structure, or a group of structures which may reasonably be considered as requiring one complete service, are so located as to lie across a territorial boundary established by this Commission, the consumer should be permitted to take service from either side of such boundary line. The conditions to which this conclusion applies are to be carefully distinguished from an instance where the consumer might build his electric facilities over a boundary line established by the Commission to defeat the purpose for which such boundary was established.

I recommend the following form of order :

ORDER.

Complaint as above named and numbered having been filed with this Commission, a public hearing having been held thereon, the matter having been duly submitted and being now ready for decision and the Commission being fully advised and good cause appearing; therefore

It is hereby ordered, that the above complaint be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this thirtieth day of September, 1927.

DECISION No. 18862.

IN THE MATTER OF THE APPLICATION OF TRACY GAS COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO FURNISH GAS TO THE CITY OF TRACY, SAN JOAQUIN COUNTY, AND FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF ONE HUNDRED THOUSAND DOLLARS OF ITS CAPITAL STOCK AND ONE HUNDRED THOUSAND DOLLARS OF ITS FIRST MORTGAGE BONDS TO FINANCE SUCH CONTEMPLATED IMPROVEMENTS.

Application No. 13295.

Decided October 3, 1927.

SECURITIES—STOCK—TO ISSUE.—Applicant authorized to issue \$5,000 of common stock additional to \$75,000 of such stock heretofore authorized.

Crittenden and Hench, by *Bradford S. Crittenden*, for Tracy Gas Company.
Rufus Kimball, for Bradford Kimball and Company.

BY THE COMMISSION.

SUPPLEMENTAL OPINION.

In its supplemental petition filed in the above entitled matter the Tracy Gas Company asks the Commission to modify its Decision No. 18684, dated August 4, 1927, so as to permit the company to sell \$100,000 of its 6 per cent twenty-year bonds at not less than 90 per cent of their face value and accrued interest, to issue additional stock in the amount of \$25,000, to use the proceeds obtained from the sale of the stock, the issue of which has heretofore been authorized, and from the sale of the bonds and from the stock herein authorized to construct the gas plant referred to herein and to approve a construction contract and the stipulation filed on September 3d.

The company has submitted a revised statement of its estimate of the cost of its proposed gas plant, which is as follows:

Land	\$5,000 00
Spur track	1,331 00
Contract to build plant and distributing system (Exhibit "B")	136,000 00
Road to plant	450 00
Electric pole line to plant	530 00
Expenses of bond issue, cost of franchises, etc.	5,000 00
Administrative expenses, that is, services of Leon Melekov, the secretary and general manager of the company, since its organization to August 31	5,400 00
Traveling expenses of officers of the company in attending to business of company	612 95
State taxes paid by company	61 25
Miscellaneous office expenses, etc.	1,220 35
Discount on bonds	10,000 00
Commissions for selling stock	17,500 00
Working capital	16,894 45
Total	\$200,000 00

At the hearing had on November 26, 1926, on the original petition in this proceeding, the company represented the cost of its plant at \$145,121. To finance such cost the Commission authorized the issue of \$75,000 of common stock and \$100,000 of 6 per cent twenty-year bonds. The stock is to be sold for not less than par and the bonds at not less than 92½ per cent of their par value and accrued interest. The Commission's decision permits the company to use not exceeding 17½ per cent of the proceeds obtained from the sale of the stock to pay commissions and all other expenses incident to the sale of the stock.

The company has submitted a proposed contract (Exhibit "B") with E. A. MacGillivray, who agrees to construct the company's generating plant, transmission and distributing system for \$136,000. This contract price includes an allowance of \$4,000 for engineering and supervision and \$2,250 for premium on the contractor's bond, to which reference will be made hereafter. The contractor agrees to pay the salary of John F. Beals, the company's engineer, during the period of construction, which is estimated at not to exceed 120 days.

The contract price is to be paid as follows:

a. 250 shares common stock of Tracy Gas Company at \$82.50 per share in lieu of \$20,625 and \$15,375 cash upon the signing of the contract.

b. \$15,000 when the 6", 4" and 2" mains have been laid in streets or alleys.

c. \$20,000 when all machinery and material to go into the plant have been fabricated and delivered on the premises of the owner.

d. \$30,000 when the contract is fulfilled and the plant completed.

e. \$35,000 thirty-five days after completion and acceptance of the plant.

The company has filed its plans and specifications in accordance with which the contractor is to construct its plant, such plans and specifications having been filed as applicant's Exhibits Nos. 7 and 9. A copy of the proposed contractor's bond (Exhibit No. 6) for \$10,000 has also been filed. The execution of this bond and the filing of a certified copy thereof with the Commission will be a condition precedent to the expenditures of any moneys for the payment of the contract price.

The contract price plus the cost of land, spur track, road, electric line and miscellaneous expenses total about \$144,531. This includes, as stated, \$4,000 for engineering and supervision and \$2,250 for premium on the contractor's bond. In addition, the company asks that it be allowed to use \$16,894.45 for working capital, \$5,400 to pay Leon Melekov, the secretary and general manager of the company, for services rendered from November 1, 1926, to August 31, 1927; to pay traveling expenses in the amount of \$612.95; to use 17½ per cent of the proceeds obtained from the sale of stock to pay commissions instead of using such amount to pay commissions and all expenses incident to the sale of the stock, and \$5,000 to pay expenses in connection with the bond issue and acquiring franchises. It would appear from the company's statement that the amount which the company has allocated for working capital is the difference between the amount which it will realize from the sale of its proposed stock and bond issue and the expenditures, other than working capital, itemized in the petition. There was, however, testimony submitted that the company has need for the working capital in conjunction with the purchase and sale of gas appliances. It does not appear to us that we are justified in authorizing the company to establish a working capital of \$16,894.45 through the issue of stocks or bonds. The Commission has heretofore in certain rate cases allowed working capital in an amount equivalent to approximately two months operating expenses. In this instance the operating expenses of the company are estimated at approximately \$1,784 per month. Assuming such expenses to be correct, we will not allow more than \$3,600 for working capital.

The Commission in its Decision No. 17769, dated December 20, 1926, as amended by Decision No. 17902, dated January 12, 1927, allowed the company to use of the proceeds realized from the sale of its stock, the issue of which was authorized by said decision, 17½ per cent to pay commissions and all other expenses incident to the sale of such stock. It now appears, however, that expenses in addition to that heretofore allowed have been incurred and that the company now desires to pay such expenses through the issue of additional stock and use the 17½ per cent to pay commissions only. It further appears that the board of directors of the company, at a meeting held on May 16, 1927, voted that a salary of \$600 per month from November 1, 1926, should be paid

to the secretary and general manager, Leon Melekov. It further appears that the secretary of this company was and is now in charge of the sale of the stock by the company. If this company undertakes to pay the salary to which reference has been made or the expenses, \$612.95, referred to above, it must pay the same out of the 17½ per cent allowed for commissions and expenses incident to the sale of stock, or in some manner other than the issue of stock, bonds or other evidences of indebtedness authorized by this commission.

Exclusive of the amount allowed for stock selling expenses and commissions, it appears to us that the Tracy Gas Company should be permitted to raise approximately \$153,200 from the sale of stock and bonds to finance the cost of constructing its proposed gas plant. The Commission has heretofore, by Decision No. 17769, authorized the issue of \$75,000 of stock. From the sale of the \$100,000 of bonds the company will realize \$90,000. Of this, however, \$3,000 is to be reserved to pay interest during construction. The actual cash which the company will thus receive from the sale of its bonds available for construction purposes will be \$87,000. Deducting the \$87,000 from the \$153,200 leaves a balance of \$66,200 to be obtained from the issue of stock. Assuming that the stock will be sold to net the company \$82.50 per share for construction purposes, the company will have to issue 800 shares (\$80,000 par value) to realize \$66,200. As stated, the Commission has heretofore authorized the issue of \$75,000 of stock. The difference between \$80,000 and the \$75,000 amounts to \$5,000, the amount of stock which will be authorized by the order herein.

By Decision No. 18684, dated August 4, 1927, the Commission declared that public convenience and necessity require the exercise by Tracy Gas Company of the rights and privileges granted by Ordinance No. 381 by the board of supervisors of the county of San Joaquin by Ordinance No. 114, passed by the board of trustees of the city of Tracy, provided, among other things, that the company file a stipulation duly authorized by its board of directors declaring it, its successors and assigns, will never claim before the Railroad Commission or any court or other public body a value for the rights and privileges it is authorized to exercise, in excess of the amounts actually paid for such rights and privileges. Pursuant to that provision, the company has filed a stipulation in which it reports the cost of the franchise obtained from the city of Tracy at \$25 and the cost of the franchise obtained from the county of San Joaquin at \$50. We find the stipulation to be in satisfactory form.

The authority granted by Decision No. 17769 to issue stock expires on October 1, 1927. The order herein will extend such authority to March 1, 1928.

FOURTH SUPPLEMENTAL ORDER.

Tracy Gas Company having asked the Commission to modify its order in Decision No. 18684, dated August 4, 1927, as indicated in the foregoing opinion, and to issue \$25,000 of additional stock, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the company should be permitted to issue additional stock in the amount of \$5,000 and that the supplemental petition that Tracy Gas Company filed on September 3d in the above entitled matter should be granted, to the extent that it affirmatively appears in this supplemental order, that the money, property or labor to be procured or paid for by the issue of the stock is reasonably required by the company, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, as follows:

1. The Commission's order in Decision No. 18684, dated August 4, 1927, is hereby amended so as to permit Tracy Gas Company to issue and sell at not less than 90 per cent of their face value and accrued interest, \$100,000 of its 6 per cent, first mortgage, twenty-year bonds, due July 1, 1927.

2. Tracy Gas Company may issue and sell at not less than par, on or before March 1, 1928, \$5,000 par value of stock and use of the proceeds obtained from the sale of such stock, an amount not exceeding $17\frac{1}{2}$ per cent of the par value of the stock sold to pay commissions and all other expenses incident to the sale of the stock. The remainder of the proceeds shall be deposited with a bank or banks and may be expended only for the purposes hereinafter indicated. Said \$5,000 of stock is in addition to the \$75,000 of stock authorized by Decision No. 17769, dated December 20, 1926.

3. Tracy Gas Company may execute a contract for the construction of its proposed gas plant, transmission and distribution system in substantially the same form as the contract filed in this proceeding as Exhibit B, provided that no payments may be made under said contract until there has been filed with the Commission a certified copy of a contractor's bond substantially in the same form as the bond filed in this proceeding as Exhibit No. 6; and provided further, that said plant, transmission and distribution system be constructed in accordance with the drawings, plans and specifications filed at the hearing had on September 20, 1927.

4. The time within which Tracy Gas Company may issue and sell the stock authorized by the order in Decision No. 17769, dated December 20, 1926, be and the same is hereby extended to March 1, 1928.

5. Tracy Gas Company may use not exceeding \$153,192.60 obtained from the sale of stock and bonds, the issue of which the Commission

has authorized in this proceeding, for the following purposes and none other:

To pay cost of land and right of way-----	\$5,000 00
To pay cost of spur track-----	1,331 00
To pay contract price-----	136,000 00
To pay cost of pole line-----	530 00
To pay expenses of bond issue, including attorney's fees and cost of acquiring franchises and expenses of proceedings before Railroad Commission-----	5,000 00
To pay cost of road-----	450 00
To provide working capital-----	3,600 00
To pay miscellaneous expenses-----	1,281 60
Total-----	\$153,192 60

Provided that 250 shares of said stock, instead of the net proceeds from the sale of said stock, may be delivered to E. A. MacGillivray at \$82.50 per share as part payment of his contract price (Exhibit B).

6. The accrued interest on the bonds and not exceeding \$3,000 obtained from the sale of the bonds may be used, if necessary, to pay interest during construction. Any amount not needed for such purposes may be expended only for such purposes as the Commission will hereafter authorize.

7. The supplemental petition of Tracy Gas Company filed on September 3d, as far as it involves the issue of \$20,000 par value of stock, is dismissed without prejudice.

8. Tracy Gas Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

9. The Commission hereby finds that the stipulation filed September 3, 1927, is in satisfactory form.

10. The Commission's order in Decision No. 17769, dated December 20, 1926, its Decision No. 17902, dated January 12, 1927, its Decision No. 18498, dated June 10, 1927, and its order in Decision No. 18684, dated August 4, 1927, shall remain in full force and effect, except as modified by this fourth supplemental order.

Dated at San Francisco, California, this third day of October, 1927.

DECISION No. 18863.

IN THE MATTER OF THE APPLICATION OF PLACENTIA WATER COMPANY, A CORPORATION, FOR AUTHORITY TO ABSORB THE ASSETS AND LIABILITIES OF THE PLACENTIA DOMESTIC WATER COMPANY, AND FOR AN ORDER AUTHORIZING THE ISSUE OF STOCKS AND BONDS, AND FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

Application No. 14037.

IN THE MATTER OF THE APPLICATION OF PLACENTIA DOMESTIC WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE SALE OF ALL THE ASSETS OF THE COMPANY AND THE DISSOLUTION THEREOF.

Application No. 14038.

Decided October 3, 1927.

TRANSFER—WATER UTILITY—To PURCHASE.—Application granted to Placentia Domestic Water Company to sell to Placentia Water Company its properties, and the latter is authorized to issue \$15,000 of common stock and \$15,000 of 6 per cent notes in payment therefor. Application dismissed in so far as it relates to \$35,000 of stock.

A. S. Bradford, for Applicants.

BY THE COMMISSION.

OPINION.

The above entitled applications were consolidated for hearing and decision.

In Application No. 14037 the Placentia Water Company asks permission to issue \$50,000 of stock and \$15,000 of cumulative 6 per cent debenture bonds due in twenty-five years in payment for the properties of Placentia Water Company, with the understanding that the Placentia Domestic Water Company will donate back into the treasury of the Placentia Water Company 1400 shares (\$35,000 par value) of that company's stock. The Placentia Water Company further asks permission for a certificate of public convenience and necessity in order to carry on the business now being conducted by the Placentia Domestic Water Company.

In Application No. 14038 Placentia Domestic Water Company asks permission to sell all of its properties to the Placentia Water Company. The Commission is further asked to authorize the dissolution of the corporation.

The properties which the Placentia Domestic Water Company desires to sell consist of the following:

Two lots in the city of Placentia upon which are two 12-inch wells, with electrical pumping apparatus; 2 steel water tanks of 66,000 gallons capacity; 1 galvanized iron water tank of 4000 gallons capacity, together with sufficient water mains, laterals, equipment and appurtenances to supply the city of Placentia and adjacent residents with domestic water. That the water mains and pipes consist of approximately 32,960 feet of 2-, 3-, 4-, and 6-inch pipe and 356 meters.

The original cost of the properties as of July 1, 1927, is reported at \$42,614.26. The accrued depreciation on the properties is reported at \$1,530.71. The Commission by Decision No. 8594, dated January 26, 1921, in Application No. 6053 in adjusting the rates of the Placentia Domestic Water Company used a rate base of \$27,743. The cost of

additions and betterments since the determination of that rate base shown by reports filed with the Commission is \$11,381.41, which added to the \$27,743 makes a total of \$39,124.41. This, however, does not include the net current assets of the corporation which on July 1st aggregated \$2,800.

The Placentia Domestic Water Company has \$30,000 of stock outstanding. Of this amount \$7,500 is owned by E. W. Camp, \$7,500 by J. R. Hitchcock, \$7,500 by W. H. Brewer and \$7,500 by A. S. Bradford. It appears that Charles E. Lee has agreed to pay for the stock of E. W. Camp, J. R. Hitchcock and W. H. Brewer \$7,500 in cash and \$15,000 in 6 per cent debenture bonds of Placentia Water Company, payable in twenty-five years. To consummate the transaction it is proposed that the properties of Placentia Domestic Water Company be transferred to the Placentia Water Company in exchange for \$50,000 of stock and the \$15,000 of debenture bonds. Upon dissolution of the Placentia Domestic Water Company, \$35,000 of the stock of the Placentia Water Company is to be returned to the treasury of that company and the \$15,000 debenture bonds are to be delivered to E. W. Camp, J. R. Hitchcock and W. H. Brewer as part payment for their stock. It thus appears that the actual consideration which the Placentia Domestic Water Company will receive for its properties will be \$15,000 of stock and \$15,000 of 6 per cent debenture bonds. In view of this situation it does not appear to us that it is necessary that this Commission authorize the issue of the \$35,000 of stock.

There has been filed with the Commission a copy of the proposed debenture bond. From the form of the bond submitted, it appears that the bonds are to be issued in denominations of \$1,000. They are payable on January 2, 1953, and will be the unsecured obligation of the Placentia Water Company. Failure to pay interest does not constitute an event of default. If the interest is not paid, it is to be added to the principal. Neither does the failure to pay interest accelerate the maturity of the bond. It definitely provides that it shall not become due until January 2, 1953. We are of the opinion that the indebtedness which the Placentia Water Company desires to incur is more of the nature of a note than of a bond and we will therefore require that if the Placentia Water Company deliver to the Placentia Domestic Water Company any evidence of indebtedness as part payment for the properties of that company, that it designate the same as notes and not as debenture bonds.

The Commission is asked to authorize the dissolution of Placentia Domestic Water Company. It is not necessary for corporations to obtain permission from this Commission to dissolve. Neither does it appear from the evidence that it is necessary that we grant to the Placentia Water Company a new certificate of public convenience and

necessity. The order herein will authorize the transfer of the properties and permit Placentia Water Company to operate the same.

The Placentia Water Company will continue in effect the rates now being charged by Placentia Domestic Water Company. The Placentia Water Company will make an estimate of the cost of extending the system to serve from sixty to eighty new consumers. If it is concluded to proceed with that extension, a new application to finance the same will be filed.

ORDER.

The Railroad Commission having been requested to enter its order authorizing the transfer of the properties of Placentia Domestic Water Company to Placentia Water Company, and authorizing the latter to acquire and operate such properties and issue \$50,000 of stock and \$15,000 of 6 per cent cumulative debenture bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the Placentia Water Company should be permitted to issue not exceeding \$15,000 of stock and not exceeding \$15,000 of 6 per cent notes due January 2, 1953, in payment for the properties of Placentia Domestic Water Company and that the money, property or labor to be procured or paid for by such issue is reasonably required by the Placentia Water Company and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that these applications should be granted as herein provided; therefore,

It is hereby ordered, as follows:

1. Placentia Domestic Water Company may sell all of its properties described in the above entitled applications to the Placentia Water Company, which company is hereby permitted to acquire said properties and operate the same.

2. Placentia Water Company may issue on or before December 31, 1927, in payment for the properties of Placentia Domestic Water Company \$15,000 of common stock and \$15,000 of 6 per cent notes payable January 2, 1953.

3. Application No. 14037 (Placentia Water Company), in so far as it involves the issue of \$35,000 of stock, be and the same is hereby dismissed without prejudice.

4. Within thirty days after acquiring the properties of Placentia Domestic Water Company, Placentia Water Company shall file with the Railroad Commission a certified copy of the deed or any other instrument under which it acquires title to the properties of Placentia Domestic Water Company.

5. Within ten days after the transfer of the properties herein authorized, Placentia Water Company shall file with the Railroad Commission a statement showing the exact date at which it acquired and took

possession of the properties of Placentia Domestic Water Company.

6. The authority herein granted will become effective when Placentia Water Company has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

7. The Placentia Water Company shall file with the Railroad Commission a report as is required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this third day of October, 1927.

DECISION No. 18864.

IN THE MATTER OF THE APPLICATION OF MACKAY RADIO AND TELEGRAPH COMPANY, FOR AN ORDER AUTHORIZING THE ISSUE OF CAPITAL STOCK.

Application No. 14059.

IN THE MATTER OF THE APPLICATION OF FEDERAL TELEGRAPH COMPANY AND MACKAY RADIO AND TELEGRAPH COMPANY FOR AN ORDER AUTHORIZING THE SALE AND PURCHASE OF CERTAIN PROPERTY.

Application No. 14060.

Decided October 3, 1927.

TRANSFER—TELEGRAPH—RADIO COMMUNICATION UTILITY—STOCK—TO ISSUE.—
Mackay Radio and Telegraph Company authorized to purchase properties of Federal Telegraph Company, and to issue \$1,000,500 of common stock, at not less than par, and to use \$1,000,000 of the proceeds thereof to pay for said properties, and \$500 for working capital. Application dismissed as far as it involves the issue of \$350,000 of stock.

Willard P. Smith and Max Thelen, for Mackay Radio and Telegraph Company.
Pillsbury, Madison and Sutro, by *Alfred Sutro*, for Federal Telegraph Company.

BY THE COMMISSION.

OPINION.

The above numbered applications have been consolidated for the purpose of receiving evidence and for decision.

In Application No. 14060, Federal Telegraph Company asks permission to sell its radio and/or wire communication business and system in California to Mackay Radio and Telegraph Company. The latter company joins in the application.

In Application No. 14059, Mackay Radio and Telegraph Company asks permission to issue and sell, at par, for cash \$1,350,000 of its common capital stock for the purpose of acquiring the radio and/or wire communication business and system of Federal Telegraph Company and \$500 for the purpose of making extensions and improvements to its facilities. The \$500 of stock will be issued to directors.

The applications show that Federal Telegraph Company maintains and operates a radio and/or wire communication system between the cities of San Diego, Los Angeles, San Francisco and Oakland, in the

State of California, Portland, in the state of Oregon, and Seattle and Tacoma in the state of Washington, and between such points, or some of them, and vessels at sea, and that it also has extensive manufacturing and engineering facilities, a research laboratory and other experimental facilities for the development of improvements in electrical communication, systems and apparatus.

The company now reports that it desires to devote its energies to the extension of its manufacturing business and to the development of apparatus and equipment for electrical communication, and to that end desires to dispose of its existing radio and telegraph system. The properties which it desires permission to sell are described in Exhibits Nos. 1, 2, 3, 4, 5, 6 and 7 attached to the petition in Application No. 14060.

The Mackay Radio and Telegraph Company desires to acquire said properties situate in the State of California, together with the other properties of Federal Telegraph Company situate in Oregon, Washington and elsewhere and used or useful in the transmission of messages by radio or wire. The additional properties are described in Exhibits Nos. 8, 9, 10, 11 and 12 attached to the petition in Application No. 14059.

The physical properties to be transferred, together with the reported cost, are set forth in Exhibit No. 1, as follows:

Property located near Palo Alto and known as Marsh station—		
Land	\$23,741 19	
Equipment	269,524 06	
		\$293,265 25
Property at Daly City known as San Francisco receiving station—		
Equipment		26,365 64
Property at Hillsboro, Oregon, known as Hillsboro station—		
Land	\$50,060 50	
Equipment	199,577 16	
		249,637 66
Property at Council Crest, Oregon, known as Portland receiving station—		
Land	\$598 10	
Equipment	16,693 95	
		20,292 05
Property at Clearwater, Los Angeles, known as Clearwater station—		
Land	\$7,947 10	
Equipment	93,689 96	
		101,637 06
Property at Reposa street, Los Angeles, known as Los Angeles receiving station—		
Land	\$900 00	
Equipment	20,026 16	
		20,926 16
Total transmission and receiving stations.....		\$714,123 82
Commercial stations—furniture and fixtures.....		25,257 32
Call box system at Portland.....		4,626 00
Radio apparatus installed on ships.....		152,442 45
Inventories		8,965 76
Total for telegraph system.....		\$905,415 35

In addition to these properties there will be transferred to the purchasing corporation certain leasehold interests in properties used in the operation of the telegraph system, contracts for the use of certain circuits belonging to The Pacific Telephone and Telegraph Company, and contracts for the rental and service of radio equipment and other apparatus on ships and vessels and other contracts, all as fully set forth in the application. In the total of \$905,415.35 shown in the foregoing tabulation there is no allowance for any of these items or for any other intangible items such as going concern, organization, etc.

The revenues and expenses of the telegraph business have been reported to the Commission for the last three calendar years as follows:

Item	1924	1925	1926
Revenues—			
Telegraph tolls	\$598,884 56	\$599,086 84	\$637,525 95
Rental and operation of apparatus on ships	54,824 58	37,221 49	54,588 99
Other revenues	1,920 90		
Total revenues	\$655,630 04	\$636,308 33	\$692,114 94
Operating expenses	491,968 45	492,617 24	519,065 23
Net operating revenue	\$163,661 59	\$143,691 09	\$173,049 71
Uncollectible bills	1,538 45	2,437 88	2,275 29
Taxes	24,181 70	26,628 27	25,152 23
Operating income	\$137,941 44	\$114,623 94	\$145,622 19
Deductions—			
Rentals	\$52,926 12	\$55,623 17	\$57,832 66
Interest	30,666 68	22,666 66	13,333 34
Amortization discount	4,728 12	3,440 63	1,814 30
Miscellaneous	8,190 29		
Total	\$96,511 21	\$81,730 46	\$72,980 30
Profit for year	\$41,430 23	\$32,893 48	\$72,641 89

The purchasing company, Mackay Radio and Telegraph Company, is a corporation organized on or about September 1, 1927, under and by virtue of the laws of the State of California. It is intended that the new corporation will be controlled, through stock ownership, by The Mackay Companies, an organization which at present controls the Postal Telegraph-Cable Company of California, which operates a telegraph business in California, and other corporations operating telegraph businesses elsewhere throughout the United States and in other parts of the world. It is urged, in support of the applications, that the transfer of properties, as herein proposed, is in the public interest because such properties will be operated in conjunction with the present Mackay System and will supplement and enlarge its present communication facilities. Attention is called to the fact that Federal Telegraph Company now serves but four cities in California and it is alleged that its inability to expand geographically has been

caused, in part, by the fact that it had no organization for the pick-up and delivery of messages in other points. The present Mackay System is said to have branch offices in every large city in the state, which thus will be made available for use in connection with the operation of the Federal Telegraph System.

Mackay Radio and Telegraph Company proposes to issue and sell, at par for cash, \$1,350,000 of its common capital stock in payment for the telegraph system referred to. The testimony offered in support of the request to issue \$1,350,000 of stock in payment for the properties shows that such a request is based primarily upon the capitalization of the net earnings of Federal Telegraph Company at a rate of 8 or 9 per cent. This Commission has repeatedly held that it would not capitalize a public utility property on the basis of earnings. In Decision No. 605, dated April 25, 1913 (Vol. 2, Opinions and Orders of the Railroad Commission of California page 693), the Commission referring to a capitalization based on earnings said:

It is obvious that the earning basis is not a proper one upon which to base capitalization for the reason that public utilities being subject to rate fixing, capitalization based on earnings today, would have entirely different security and probability of payment were those rates changed by a rate-fixing body tomorrow.

In this instance W. J. Herdman, a witness for Mackay Radio and Telegraph Company, testified that in his opinion the tangible properties had a value of \$877,000. However, to justify the issue of \$1,350,000 resort was had to the capitalization of earnings on the basis stated. The request of the Mackay Radio and Telegraph Company to issue \$1,350,000 of stock will not be granted. The order herein will authorize that company to issue at par \$1,000,000 of common stock to acquire the properties of Federal Telegraph Company referred to above.

ORDER.

Applications having been made to the Railroad Commission for authority to transfer properties and to issue stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the applications should be granted, only as herein provided, and that the issue of \$1,000,500 of stock is required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Federal Telegraph Company be, and it hereby is, authorized to transfer to Mackay Radio and Telegraph Company all of its radio and/or wire communication properties and business located in California and described in Exhibits Nos. 1, 2, 3, 4, 5, 6 and 7, attached to Application No. 14060.

It is hereby further ordered, that Mackay Radio and Telegraph Company be and it hereby is authorized to issue and sell for cash, on or before December 31, 1927, at not less than par, \$1,000,500 of its common capital stock and to use \$1,000,000 of the proceeds to pay the cost of acquiring the properties described in Exhibits Nos. 1, 2, 3, 4, 5, 6 and 7 in Application No. 14060 and Exhibits Nos. 8, 9, 10 and 11 in Application No. 14059 and other properties described in said applications, provided that said properties are acquired free and clear of all incumbrances and for the sum of not exceeding said \$1,000,000, and to use \$500 of the proceeds to pay for improvements and betterments and to provide working capital.

The authority herein granted is subject to further conditions, as follows:

1. The prices to be paid by Mackay Radio and Telegraph Company for the properties to be acquired from Federal Telegraph Company and the amount of stock which Mackay Radio and Telegraph Company is herein authorized to issue in payment for such properties shall not be urged before this Commission or any other public body or court as a measure of the value of said properties for any purpose other than the transfer and stock issue herein authorized.

2. Mackay Radio and Telegraph Company shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

3. The authority herein granted shall become effective upon the date hereof.

It is hereby further ordered, that the application, No. 14059, in so far as it involves the issue of \$350,000 of stock be and it hereby is dismissed without prejudice.

It is hereby further ordered, that Mackay Radio and Telegraph Company shall file with the Railroad Commission a certified copy of the deed or deeds and other instruments under which it acquires and holds title to the aforesaid properties, said copy or copies to be filed within thirty days after their execution.

Dated at San Francisco, California, this third day of October, 1927.

DECISION No. 18866.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRUCK COMPANY, A CORPORATION, TO TRANSFER ITS OPERATING RIGHTS FROM AND TO LOS ANGELES HARBOR AND ITS TERMINAL AND TO SELL THREE MOTOR TRUCKS AND THREE TRAILERS TO CALIFORNIA TRUCK COMPANY, INCORPORATED, AND CALIFORNIA

TRUCK COMPANY, INCORPORATED, TO ACQUIRE OPERATIVE RIGHTS, TRUCKS AND TRAILERS.

Application No. 13966.

Decided October 4, 1927.

TRANSFER—AUTO TRUCK—To SELL—California Truck Company authorized to transfer its properties to California Truck Company, Inc., and the latter authorized to issue \$10,000 of capital stock in payment therefor, and to provide working capital.

Howard Robertson, for Applicants.

By THE COMMISSION.

OPINION.

In the above entitled matter the Railroad Commission is asked to make an order authorizing California Truck Company, a corporation, to transfer operative rights and properties to California Truck Company, Inc., a corporation.

California Truck Company was organized in 1884 and is engaged in the local drayage business in the city of Los Angeles and in the transportation business between the city of Los Angeles and its harbor, the major part of its operations being of a local nature. It appears that the corporation has decided to separate its two classes of operations and for that reason has caused the organization, on or about April 29, 1927, of California Truck Company, Inc., the other applicant herein, for the purpose of having it take over and operate the transportation business. To this end it proposes to transfer to the new corporation its operative right and certain rolling equipment consisting of three 5-ton, 6-wheel White Motor trucks, of a reported value of \$3,000 each, and three 5-ton, 4-wheel trailers of a reported value of \$750 each.

The consideration for the transfer of the properties will be 9997 shares (\$9,997) of the common capital stock of California Truck Company, Inc. The company has a total authorized capital stock of \$10,000, divided into 10,000 shares of the par value of \$1 each, all common, and it proposes to sell to its incorporators at par the three shares not delivered in payment for the property.

The purchaser is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to

lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

ORDER.

The Commission is of the opinion that this is a matter in which a public hearing is not necessary and that it should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the stock is reasonably required for the purposes specified herein and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income; therefore,

It is hereby ordered, that California Truck Company, a corporation, be and it hereby is authorized to transfer to California Truck Company, Inc., a corporation, the operative rights and properties referred to herein, and California Truck Company, Inc., be and it hereby is authorized to acquire such rights and properties.

It is hereby further ordered, that California Truck Company, Inc., be and it hereby is authorized to issue 10,000 shares of common capital stock of the aggregate par value of \$10,000 and to deliver 9997 shares thereof in full payment for the operative rights and properties herein authorized to be transferred, and to sell three shares at par for cash and to use the proceeds for working capital.

The authority herein granted is subject to the following conditions:

1. California Truck Company, Inc., shall keep such record of the issue of the stock herein authorized as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The consideration to be paid for the properties herein authorized to be transferred shall never be urged before this Commission or any other public body as a measure of value of such property for any purpose other than the transfer herein authorized.

3. California Truck Company shall unite immediately with California Truck Company, Inc., in common supplement to the tariffs on file with the Commission, California Truck Company on the one hand withdrawing and California Truck Company, Inc., on the other hand accepting and establishing such tariffs and all effective supplements thereto.

4. California Truck Company shall immediately withdraw the time schedules filed in its name with the Railroad Commission and California Truck Company, Inc., shall immediately file in duplicate in its own name time schedules covering the service heretofore given by California Truck Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of California Truck Company, or time schedule satisfactory to the Railroad Commission.

5. The rights and privileges herein authorized to be transferred may not be sold, leased, transferred or assigned or service thereunder discontinued unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has been secured.

6. No vehicle may be operated by California Truck Company, Inc., unless such vehicle is owned by said company or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

7. The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this fourth day of October, 1927.

DECISION No. 18869.

IN THE MATTER OF THE ESTABLISHMENT OF REGULATIONS GOVERNING THE FILING WITH THE RAILROAD COMMISSION OF CONTRACTS FOR SPECIAL SERVICES OR PROVIDING DEVIATIONS FROM THE FILED RATES, FARES, TOLLS, RENTALS, CHARGES, CLASSIFICATIONS, CONTRACTS, PRACTICES, RULES OR REGULATIONS OF PIPE LINE, GAS, ELECTRICAL, TELEPHONE, TELEGRAPH, WATER AND HEAT CORPORATIONS, AND OF WHARFINGERS AND WAREHOUSEMEN AS DEFINED IN THE PUBLIC UTILITIES ACT OF THE STATE OF CALIFORNIA (CAL. STATS. 1915, PAGE 115, AS AMENDED).

Case No. 2356.

Decided October 4, 1927.

COMMISSION'S INVESTIGATION—CONTRACTS—SPECIAL SERVICES—DEVIATIONS FROM RATES.—General Order No. 78 issued by the Commission providing for the filing, for the Commission's approval, of contracts involving special services, or providing deviations from filed rates, fares, tolls, etc.

Thomas J. Reynolds, for Southern California Gas Company, Midway Gas Company, and affiliated company.

James T. Shaw, for Pacific Telephone and Telegraph Company, Northern California Telephone Co., Southern California Telephone Company, Ontario and Upland Telephone Company, Home Telephone and Telegraph Company of Covina, United States Long Distance Telephone Company.

Ernest Irwin, for California Independent Telephone Association.

Willard P. Smith, for Postal Telegraph-Cable Company.

L. A. Bailey, for California Warehousemen's Ass'n and Pacific States Cold Storage Warehousemen's Association.

J. H. Powell, for Outer Harbor Dock and Wharf Company.

John J. Sharon, for Spring Valley Water Company.

W. C. McWhinney, for Southern California Edison Company.

Pillsbury, Madison and Sutor, by *N. Korte*, for Federal Telegraph Company.

Fred H. Drake, for San Carlos Water Company and San Geronimo Valley Water Company.

G. D. Clark, for Hollister Water Company.

T. F. West, for Rio Vista Telephone and Telegraph Co.

Ernest Behr, for Great Western Power Company of California.

J. C. Telles, for Telles Bros. Water Company.

J. P. Puckett, for Wilmington Transfer and Storage Co.

C. P. Cutten, for Pacific Gas and Electric Company and Pacific Gas and Electric Company as lessee of Sierra and San Francisco Power Company and California Telephone and Light Company.

G. H. Quandt, in propria persona.

Chickering and Gregory, by W. C. Fox, for Santa Barbara Telephone Company, Santa Maria Gas Company, Western Water Company and Western States Gas and Electric Company.

SEAVEY, Commissioner.

OPINION.

This is a matter initiated by the Commission for the purpose of investigating the question of the issuance of a proposed general order.

Public hearings thereon were held before me after due notice to all parties, and it is my opinion that this Commission should now issue a general order in form set forth below to cover, broadly, the methods and practices of the filing by public utilities with this Commission of contracts for special service or services or providing for or placing in effect deviations from filed rates or charges.

I therefore suggest the following form of order:

ORDER.

Formal investigation having been directed by this Commission, public hearings having been held, the matter now being submitted, and the Commission being fully informed in the premises;

It is hereby ordered, that a general order of this Commission in words and figures as follows be and it is hereby directed to be published by the secretary of this Commission:

GENERAL ORDER No. 78.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the establishment of regulations governing the filing with the Railroad Commission of contracts for special services or providing deviations from the filed rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules or regulations of pipe line, gas, electrical, telephone, telegraph, water and heat corporations, and of wharfingers and warehousemen as defined in the Public Utilities Act of the State of California (Cal. Stats. 1915, p. 115, as amended).

Approved October 4, 1927.

Effective November 3, 1927.

It is hereby ordered, that from and after the effective date of this order the following regulations shall apply to the filing with this Commission of all contracts for special service or services, or providing for, or placing in effect deviations of any sort or character, whatsoever, from the filed rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules or regulations of pipe line, gas, electrical, telephone, telegraph, water and heat corporations, and of wharfingers and warehousemen, as said several terms are defined in the Public Utilities Act of this state (Statutes 1915, page 115, as amended), wherever said contracts are required by said act to be filed with this Commission:

I. Any contract which contains provisions for rates, charges, rules or regulations which result, or will result, directly or indirectly, in an increase or increases in any rates, fares, tolls, rentals or other charges on file with this Commission and in effect shall be submitted to this Commission, together with a formal application requesting authority

to enter into said proposed contract and to place in effect said proposed increase or increases, or for such other disposition as may be appropriate in the premises.

II. Any contract as to which, by any rule, regulation, general order or formal decision of this Commission, formal permission or approval is required shall be submitted to this Commission, together with a formal application requesting authority to enter into said proposed contract, or for such other disposition as may be appropriate in the premises.

III. Any contract which contains provisions for rates, charges, rules or regulations which do not and will not result in rates, fares, tolls, rentals or other charges for the service in question greater than those provided in tariffs on file with this Commission and in effect, shall be submitted to this Commission, together with a letter explaining the purpose of said proposed changes in said rates, fares, tolls, rentals or other charges, or any of the same, or in said rules or regulations, and calling attention to the salient features of said contract.

IV. All contract forms which any such public utility requires any patron, consumer or subscriber, or applicant for service to sign in connection with or precedent to service, shall be filed with this Commission in accordance with its General Orders heretofore issued and now or hereafter in effect relating thereto in respect to such classes of public utilities.

V. In all other such cases, present or proposed contracts of the general character herein referred to shall be offered for filing for the general information of this Commission, accompanied by appropriate explanatory notes which shall set forth the purpose of such contracts and call attention to their salient features.

VI. In all cases, the filing or submission for filing, or presentation of contracts of the classes above mentioned shall be subject to such action as this Commission may direct in the exercise of its jurisdiction.

VII. Where not in conflict with the provisions of this Order, the provisions of all general orders of this Commission heretofore issued shall remain in full force and effect.

The effective date of this order shall be thirty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of October, 1927.

DECISION No. 18877.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN PACIFIC COMPANY, A CORPORATION, FOR PERMISSION TO CONSTRUCT CERTAIN TRACKS AT GRADE ACROSS CERTAIN STREETS BETWEEN ELEVENTH STREET AND BAY STREET AND ACROSS LAWRENCE STREET TO PROVIDE YARD FOR HANDLING PERISHABLE FREIGHT.

Application No. 13694.

Decided October 4, 1927.

GRADE CROSSING—ELECTRIC RAILROAD—TO CONSTRUCT.—Application granted with the exception of the crossing at Ninth street, which is denied, pending approval of plans for the separation of grades at Ninth street.

Frank Karr, for Applicant.

Jess E. Stephens, City Attorney, for City of Los Angeles.

BY THE COMMISSION.

OPINION.

In this application the Southern Pacific Company seeks permission to construct tracks at grade across certain streets in the city of Los Angeles in connection with the development of a team track yard located east of Alameda street and north of Ninth street.

A public hearing was held in this matter before Commissioner Brundige at Los Angeles on June 28, 1927, at which time the matter was taken under submission. At the time of the hearing, applicant presented only a permit from the Board of Public Utilities of the city of Los Angeles to construct the proposed track at grade across the various streets involved. However, the city council of the city of Los Angeles, on July 1, 1927, approved Ordinance No. 58280, which granted Southern Pacific Company permission to construct these crossings under certain conditions.

The tracks which applicant proposes to construct are for the purpose of reaching property in the vicinity of Eighth street to the east of Alameda street on which the development of team tracks, particularly for the handling of perishable products, is contemplated. This business, it appears, is at present handled at several points along Alameda street from Macy to Butte street but upon completion of the development proposed it would be largely concentrated at the new location at Eighth and Alameda streets. Connection is proposed with an existing freight lead of the Los Angeles and Salt Lake Railroad at Eleventh and Lemon streets from which point southerly and easterly operation will be carried on jointly over the latter company's track making it possible for the Southern Pacific Company to handle its freight from Alhambra street over the tracks on the east bank of the Los Angeles River directly into the proposed yard. The freight can also be handled via Alameda street and the present Butte street yards. To the north of this junction point on Lemon street the proposed Southern Pacific track runs approximately parallel to and about 35 feet east of the existing tracks of the Los Angeles and Salt Lake Railroad to the vicinity of Eighth street.

Of the various highways crossed by the proposed track construction, Ninth street is the only one of any material traffic importance at this time. The record shows that this is a very important east and west traffic artery at the present time and its importance will be greatly

increased with the completion of the contemplated opening and widening of Tenth street to a connection with Ninth street just west of the proposed crossing. Applicant admits that for a permanent arrangement, the expense of a grade separation at this location is justified as traffic upon this proposed additional track over such an important highway artery when considered with the traffic now operated over the adjacent tracks of the Los Angeles and Salt Lake Railroad will present a serious interference to vehicular traffic. Applicant, however, urged that for the present the proposed track be constructed at grade across Ninth street to accommodate the present need for track facilities to handle perishable fruits and vegetables, and furthermore, that Ninth street should not be closed for the construction of a grade separation until such time as the Seventh street viaduct could be opened to public travel.

The Seventh street viaduct has been completed since the submission of this application and this being the case, it does not seem that the vehicular traffic that would normally use the Ninth street viaduct over the river would be interfered with to any greater extent at this time than would be the case at a future date due to the construction of a grade separation at the location involved herein. This grade separation would necessarily include both the proposed track of applicant and the two tracks of the Los Angeles and Salt Lake Railroad which now cross Ninth street at grade at a point about 40 feet west of the proposed crossing.

The record indicates that the parties involved in such a grade separation, namely, Southern Pacific Company, the city of Los Angeles and the Los Angeles and Salt Lake Railroad, have reached a tentative agreement as to the manner of construction and the division of cost of constructing Ninth street at Lemon street under the tracks of Los Angeles and Salt Lake Railroad and the one proposed herein. Under this plan it appears that each party will pay approximately one-third of the cost of the improvement. The city and the Southern Pacific Company also appear to have entered into a tentative agreement whereby the city's portion of the cost will be paid by the Southern Pacific Company in return for the vacation of certain city streets which would be occupied by the tracks of the Southern Pacific Company in the proposed development of the team track yard referred to above.

In addition to the crossing at Ninth street discussed above, the proposed line crosses the following streets: Lawrence street, Wilson street, Eighth street, Damon street, Enterprise street, Hunter street, Eleventh street, Lemon street, and also four 15-foot alleys as indicated on map drawing No. C-16, Los Angeles Division, dated April 9, 1927, which is attached to the application.

Lawrence street is a comparatively short north and south street located one block east of Alameda street. It is now improved with an asphalt pavement. The traffic on this highway consists largely of local industrial vehicles.

Lemon street is a rather unimportant north and south highway running parallel to and about 900 feet east of Alameda street. It is improved with oil and macadam. The traffic on this highway consists largely of local industrial vehicles.

Wilson street is in effect a continuation of Lemon street north of Eighth street. It is unimproved but carries a small number of vehicles.

Damon street, Enterprise street, Hunter street and Eleventh street are all short east and west highways, which are now improved with oil macadam and accommodate only a comparatively small volume of local industrial traffic.

Eighth street at this time is an unimportant street in the vicinity of the proposed crossing. However, there is a plan to construct a connecting link between that length of Eighth street east of Lemon street with that portion west thereof, there being no such physical connection at this time. It reasonably could be assumed that if and when this project is carried out, Eighth street will become an important east and west highway artery.

From the evidence adduced in this proceeding, it appears that public convenience and necessity justify the granting of all the crossings at grade applied for in this application except that at Ninth street. The number of freight movements across Ninth street would undoubtedly be very frequent when considering those to be moved over the proposed track as well as those moved over the existing tracks of the Los Angeles and Salt Lake Railroad. All these freight movements would travel at a slow rate of speed and would thereby cause additional delay to the vehicular traffic on Ninth street. As set forth above, Ninth street already is an important east and west highway artery of the city of Los Angeles and will become more important with future development especially when the proposed Tenth street project is realized, which appears to be reasonably assured at this time. There are no apparent benefits to be derived from delaying a grade separation at Ninth street, as such delay will not result in an advantage to the traveling public or to the railroad, and as the cost of effecting such a separation, especially with respect to property damage, will undoubtedly increase as development of adjacent property progresses. The application in so far as it refers to the crossing of Ninth street at grade will therefore be denied. In view of the fact that the parties interested in a grade separation at Ninth street have already reached a tentative agreement as to the manner of construction and the division of costs, it is suggested that a joint application for grade

separation at this location be filed by those parties, namely Southern Pacific Company, the city of Los Angeles and Los Angeles and Salt Lake Railroad Company.

A separation of grade at Ninth street may materially affect the conditions surrounding the construction of other of the grade crossings applied for. In view of this fact it would seem proper to delay the actual construction of the crossings at grade applied for until the grade separation at Ninth street has been completed or at least until the final plans for same have been agreed to by all interested parties. The crossings at grade applied for in this application with the exception of that at Ninth street will therefore be granted, the same to be constructed in accordance with the conditions to be specified in a supplemental order herein to be issued after this Commission has approved a plan by which grades shall be separated as above mentioned.

ORDER.

Southern Pacific Company, a corporation, having filed with this Commission, on April 12, 1927, an application for permission to construct certain tracks at grade across Ninth street and certain other streets in the city of Los Angeles, a public hearing having been held, the matter having been submitted and being now ready for decision; therefore,

It is hereby ordered, that permission and authority be and it is hereby granted to Southern Pacific Company to construct certain tracks at grade across Lawrence, Wilson, Eighth, Damon, Enterprise, Hunter, Eleventh and Lemon streets, and four fifteen-feet (15') alleys in the city of Los Angeles, county of Los Angeles, State of California, at the locations hereinafter particularly described and as shown by the map (Los Angeles Division Drawing No. C-16) attached to the application.

DESCRIPTION OF CROSSINGS.

Lemon and Eleventh Streets.

Beginning at a point in the southerly line of Eleventh street distant westerly thereon 35 feet, more or less from the easterly line of Lemon street; thence northeasterly in a direct line a distance of 156 feet, more or less, to a point in the easterly line of Lemon street, distant northerly thereon 160 feet, more or less, from said southerly line of Eleventh street.

Also a track to cross the east and west alley in the block bounded by Ninth, Lemon, Hunter and Mateo streets; Hunter street; the east and west alley in the block bounded by Lemon, Hunter, Mateo and Enterprise streets; Enterprise street; and the east and west alley in the block bounded by Lemon, Enterprise, Mateo and Damon streets, the center line of said track being parallel with and distant easterly 8.5 feet, at right angles, from the easterly line of Lemon street.

Damon street.

Beginning at a point in the southerly line of Damon street distant easterly thereon 8.5 feet, more or less, from the southeast corner of Damon and Lemon streets; thence northerly on a curve concave to the west, a distance of 50 feet, more or less, to a point in the northerly line of Damon street, distant easterly thereon 5 feet, more or less, from the northeast corner of Damon and Lemon streets.

Lemon Street.

Beginning at a point in the easterly line of Lemon street, distant southerly thereon 56 feet, more or less, from the southeast corner of Lemon and Damon streets; thence northwesterly on a curve concave to the southwest, a distance of 130 feet, more or less, to a point in the westerly line of Lemon street, distant southerly thereon 50 feet, more or less, from the southwest corner of Lemon and Damon streets.

Also:

Beginning at a point in the easterly line of Lemon street, distant northerly thereon 30 feet, more or less, from the northeast corner of Lemon and Damon streets; thence northwesterly on a curve concave to the southwest, a distance of 120 feet, more or less, to a point in the westerly line of Lemon street, distant northerly thereon 18 feet, more or less, from the northwest corner of Lemon and Damon streets.

Also a track to cross the east and west alley in the block bounded by Lemon, Enterprise, Mateo and Damon streets.

Beginning at a point in the southerly line of said alley distant easterly thereon 6 feet, more or less, from the easterly line of Lemon street; thence northeasterly a distance of 15 feet, more or less, to a point in the northerly line of said alley, distant easterly thereon 4 feet, more or less, from the easterly line of Lemon street.

Also two tracks to cross the east and west alley in the block bounded by Lawrence, Eighth, Wilson and Sacramento streets.

Beginning at a point in the southerly line of said alley, distant westerly thereon 127 feet, more or less, from the westerly line of Wilson street; thence northwesterly in a direct line a distance of 25 feet, more or less, to a point in the northerly line of said alley, distant westerly thereon 145 feet, more or less, from said westerly line of Wilson street.

Beginning at a point in the southerly line of said alley, distant westerly thereon 135 feet, more or less, from the westerly line of Wilson street; thence northwesterly on a curve concave to the southwest a distance of 33 feet, more or less, to a point in the northerly line of said alley distant westerly thereon 165 feet, more or less, from said westerly line of Wilson street.

Also three tracks to cross Lawrence street, the center lines of said tracks being parallel with and distant southerly 25 feet, 38 feet, and 108 feet, at right angles, from the southerly line of Eighth street.

Also three tracks to cross Lawrence street, the center lines of said tracks being parallel with and distant northerly 100 feet, 170 feet, and 220 feet, at right angles, from the northerly line of Eighth street.

Wilson Street.

Beginning at a point in the easterly line of Wilson street where same is intersected by the easterly prolongation of the northerly line of Eighth street; thence northwesterly in a direct line, a distance of 62 feet, more or less, to a point in the westerly line of Wilson street, distant northerly thereon 38 feet, more or less, from the northwest corner of Wilson and Eighth streets.

Said crossings to be constructed in accordance with conditions to be specified in a supplemental order herein following a determination of the plan of grade separation at Ninth and Lemon streets at the locations described in the foregoing opinion.

It is hereby further ordered, that the portion of this application seeking the construction of a crossing at grade with Ninth street be and it is hereby denied.

The effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourth day of October, 1927.

DECISION No. 18879.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES SYSTEM, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXTEND AND OPERATE ITS AUTOMOBILE STAGE SERVICE AS A CARRIER OF PASSENGERS, BAGGAGE AND EXPRESS: (1) ON AN ALTERNATIVE ROUTING, TURNING OFF FROM THE MAIN HIGHWAY, LOS ANGELES-SAN FRANCISCO COAST ROUTE, AT PISMO BEACH, GOING THROUGH OCEANO AND RETURNING TO MAIN HIGHWAY ABOUT THREE MILES NORTH OF PISMO BEACH; (2) A REROUTING ON HIGHWAY BETWEEN EUREKA AND BIG BAR TO CONFORM TO NEW HIGHWAY CONSTRUCTION; AND (3) ABANDONMENT OF THAT PORTION OF THE HIGHWAY BETWEEN SAN DIEGO AND EL CENTRO WHICH LIES BETWEEN SAN DIEGO AND THE JUNCTION OF THE CAMPO ROAD WITH THE PRESENT STATE HIGHWAY VIA DESCANSO, WHICH JUNCTION IS AT A POINT KNOWN AS HI-PASS; AND (4) REROUTING OF INLAND ROUTE OPERATIONS BETWEEN SAN DIEGO AND BONSAILL; AND (5) REROUTING OF DESCANSO LINE AT HI-PASS AND WARREN'S RANCH.

Application No. 13766.

Decided October 4, 1927.

CERTIFICATE—AUTO STAGES—SERVICE—To EXTEND—To REROUTE.—Application granted, with the exception that the application for certificate to operate a new service south of Pismo Beach to Pismo Center, Oceano and Haleyon, is denied.

Warren B. Libby and *Frank B. Austin*, for Applicant.
Kidd, Schell and Delamar, by *Gerald F. Delamar*, for C. H. Pennoyer, Protestant.
F. B. Watson and *A. D. Hagaman*, for Southern Pacific Railroad Company, Protestant.

BY THE COMMISSION.

OPINION.

In the above numbered proceeding Pickwick Stages System, a corporation, makes application to the Railroad Commission for authority (1) to provide alternate routing through Pismo Beach and other points; (2) to change routing on its Big Bar-Orleans service in Humboldt County; (3) to abandon operations between San Diego and Hi-pass via Potrero and Campo; (4) to change routing near Bonsall between Bonsall and Oceanside; and (5) to reroute its Descanso line between Buckman's Springs and Newton (as amended at the hearing).

Public hearings herein were conducted by Examiner Williams at San Diego and Los Angeles.

Because of opposition on the part of protestant Southern Pacific Railroad, applicant moved to dismiss, without prejudice, that portion of its application relating to a change of route and additional points of service between Pismo Beach and Haleyon.

Applicant proposes to reroute its service over the Eureka and Big Bar-Orleans route by adopting a newly constructed highway following the Trinity River into Hoopa, thus eliminating two stations previously served, known as Bald Mountain and Bairs. It was the testimony of

Howard Morgan, assistant traffic manager of applicant corporation, that this change is in the interest of the traveling public, because the new road is constructed over comparatively easy grades, while the old road is rather steep in places and very narrow, and presents somewhat hazardous operating conditions where it passes over the summit of Bald Mountain. Mr. Morgan also testified that the old road would not be longer kept up by Humboldt County, and that all of the traffic through this section has been diverted to the new road. He further testified that while Bald Mountain and Bairs were fare points on the line, the records of the company do not disclose any business to or from these points. This operation is isolated from competition with any other carrier and there appears to be no reason why the change of routing as applied for should not be granted, for the comfort and safety of the traveling public.

The rerouting between Bonsall and the bridge over the San Luis Rey River, according to the testimony of Mr. Morgan, eliminates no community heretofore served by applicant, and merely diverts the traffic from an unimproved road, which went by a circuitous route to an old bridge, to the new road, which is direct between Bonsall and the river crossing, and a new concrete bridge, without inconvenience to the public. There appears to be no reason why this change also should not be authorized.

The remaining portion of the application relates to the abandonment by applicant of its through and local service between San Diego and Hi-pass over the route via Spring Valley, Jamul, Dulzura, Potrero and Campo. One schedule of applicant, leaving San Diego at 1 p.m. daily, is operated over this route, connecting at Hi-pass with the main line operations of applicant via Descanso. Through service to El Centro, with local service between San Diego and the point of junction, is also conducted by applicant. The right to operate over this route was acquired by applicant under Decision No. 5345 on Application No. 3663, dated April 29, 1918. The same decision gave applicant the right to operate between San Diego and Descanso via El Cajon, and subsequently this operation was extended over the Imperial County highway to El Centro. Applicant now operates two through schedules daily to El Centro by way of Descanso, and one daily via Dulzura and Potrero. Since the original grant, the highway by way of Descanso has been paved, while the southern route via Dulzura remains unimproved. The southern route goes through the San Ysidro Mountains, has many grades and curves, and at a point where it crosses Cottonwood Creek is frequently difficult, if not impossible, to traverse. Applicant desires to abandon all its through and local service by this route as far as Hi-pass, on the ground that the local business does not justify an

alleged costly operation over this route, and seeks permission to divert its schedule to the northern route via Descanso. At the time this operative right was granted to applicant, this was the only through route to Imperial Valley points, and it has been served continuously by applicant since 1918. During this time applicant has acquired the operations conducted by others over the same route, and for several years has been in undisputed possession of the entire service, except for certain restricted passenger rights granted to J. H. Cottrell and recently sold by Cottrell to Hubert Mills.

Applicant urges as reasons for permitting this abandonment the fact that during the calendar year 1926 the local traffic over this route aggregated only 171 passengers in both directions; that the route is objectionable to the through passengers, many of whom regard it as somewhat dangerous, and, because of the curves, some complain of car sickness; also that the operation is more costly than over the paved highway, and that it is not practical longer to operate 25 to 29-passenger stages over it.

The local traffic figures as presented in the application were corrected by an exhibit filed by applicant (No. 5), showing the total business of the operation from August, 1926, to January, 1927, inclusive. This exhibit shows that during this six months' period 100 passengers were received and discharged at local points, while 3009 passengers were carried in both directions on through tickets, "through" meaning to or from points beyond the junction of the roads at Hi-pass. The receipts from local service during this period were \$229.85, and the receipts from through service \$11,760.07. Assuming that the showing for six months is typical of the year's operation, this schedule has earned approximately \$24,000 gross per year, of which amount only approximately \$475 accrued from local traffic. There is no contention on the part of applicant that the schedule itself is unprofitable, but rather that it is useless to continue it over this unimproved route when there is a better, though not shorter, route via Descanso, which is used by applicant's through operations.

The granting of the application was protested by C. H. Pennoyer, operating a stage line under certificate of this Commission between San Diego and Descanso and Alpine. This protest is based largely on the ground that if the schedule is rerouted via Descanso, it will precede a schedule now maintained by protestant leaving San Diego at 2.30 p.m., and will deprive this protestant of a certain amount of business now accruing to him. Protestant does not operate at all over the route proposed to be abandoned, and his protest is based upon the possible injury which the rerouting, if permitted, will do to his afternoon schedule. The fact remains, however, that applicant now possesses full freedom to duplicate, if it so elects, the schedule now operated

over the southern route, over the northern route, or any other schedule it may wish to establish, without further consent from this Commission. We believe the protest of Mr. Pennoyer is not well grounded. The question of the discontinuance of applicant's service via Dulzura must be judged wholly in its relationship to the public along this route, and not along the northern route.

Protestant produced several witnesses residing along the southern route, who testified in opposition to discontinuance of the service. W. N. Humphries, living near Campo, testified that while he himself does not use the stage at all, and has used the service of the San Diego and Arizona Railway, which serves Campo, only twice, he believed applicant's service ought to be maintained for the benefit of others. He estimated that there is in Campo and within a radius of five miles thereof, a population of 500.

Christian Nelson, operating a dairy farm at Potrero, testified that there are approximately 150 inhabitants in the Potrero district, that he had used the Pickwick stage once in the last six months, that he had traveled with Mills a few times, sometimes paying him and sometimes not. He further testified that if the stage continued in operation he would use it about twice a month.

C. A. Camp, a farmer at Dulzura, testified that there are 42 registered voters in the Dulzura precinct; that he had used the Pickwick stages a few times; that once he rode with Mills on his truck, but was not asked to pay any fare, Mills informing him that he was not permitted to haul passengers for hire.

James A. Warren, proprietor of a ranch and hotel east of Campo, testified that not very many persons who come to his hotel use the stage, nearly all using their own cars. He fixed the number who use the stage coming and going as 10 or 12 a month. His hotel at present is open for rooms only and serves no meals. He testified that he uses the rail service to and from San Diego.

Applicant suspended operations on this southern schedule early in February of the present year and at the time of the hearing had not resumed any operation. No authority from this Commission to cease the operation or discontinue it for the period admitted was shown by applicant. The operation covers a distance of 67 miles. The reason given for the suspension is the washing out of a bridge over Cottonwood Creek early in February, requiring the construction of a detour, with a temporary crossing of the creek, which made it necessary for stages to make a difficult turn on each side of the creek and proceed across its bed. It was the contention of Mr. Morgan and Lester Mer-shon, superintendent of the southern district of applicant, that ever since the bridge went out, operation of the large vehicles used in the service has been impracticable over this route. It was the equally

positive testimony of the witnesses produced by protestant Pennoyer, including the testimony of Mr. Pennoyer himself, that the road is traversable, that it is not dangerous, that a great deal of traffic uses the road at the Cottonwood Creek detour, including various private trucks and the trucks of the Borderland Express, a freight service operating under authority of this Commission between San Diego and El Centro. Mr. Pennoyer, who is an experienced stage operator, testified further that the road was safe for stages of 11-passenger capacity. It was admitted by all parties that the Cottonwood Creek portion of the road is frequently made difficult, if not impassable, by heavy rains, and that several times in the past twelve years it could not be crossed.

It is further urged by applicant that the southern route will not be left without means of public transportation, because of the service maintained by Mills between San Diego and Tecate through Dulzura and Potrero, and also the service of Campo by the San Diego and Arizona Railway, which operates two schedules each way through Campo. Under the certificate granted to Mills, he is authorized to transport passengers only on the vehicles used by him in the transportation of freight or the U. S. mails. He is not now the contractor for the transportation of mails and operates no stage. The small truck he uses has but one seat in the driver's cab for passengers. The railroad operation to Campo is standard and there is a morning and evening schedule in each direction. Withdrawal of applicant's service from this route, therefore, would leave the public dependent upon Mills and the railroad for transportation service.

Another point served by applicant, Spring Valley, about nine miles from San Diego, is now also served by Fred Sutherland under Decision No. 18717 on Application No. 13617, dated August 16, 1927. It appears that no stage lines serve Jamul except applicant's and no witnesses were produced from this point. Applicant's Exhibit No. 5 shows 23 passengers to and from this point in the six months' record.

The question, therefore, is whether the service remaining is adequate for the patronage now available for any stage operation. We believe the record is entirely clear that the Pickwick service has not been patronized to such an extent that this Commission would be justified in requiring its continuance, even with a small car, as a purely local service.

Assuming that applicant has shown affirmatively that the local traffic along the route is, of itself, unprofitable, the fact still remains that the entire operation, including through business, is profitable. Exhibit No. 5 shows that over 6000 passengers use this schedule annually, and the proof is not sufficient to assume that they prefer another routing. This service has been maintained by applicant for nine years

or more, and applicant has resisted all attempts of Cottrell and Mills to expand their passenger privileges, protesting even in May, 1926, such expansion when Cottrell sought it by Application No. 8160 (supplementary). Yet in the following February this service is entirely withdrawn by applicant, due to temporary difficulties, and has since been entirely abandoned, without authority from this Commission. The assumption of applicant that a passenger service consisting of one seat in the cab of a freight truck is adequate, is rather doubtful, especially as applicant has repeatedly urged its own efficient service to maintain restrictions on its competitor. Were Mills a participant in the present proceeding, offering better facilities than he is now restricted to, the situation might be materially altered; but the record as to his intentions is silent. In addition, applicant is in the attitude of abandoning all of its service, not only locally but to Imperial Valley by this route, for many months without authority, and inferentially asks approval of this neglect of its duty to those patrons whom, though few, it has for many years insisted that it alone be permitted to serve without restraint. A similar fact exists as to the rerouting between Buckman's Springs and Newton, applicant having for a long time abandoned service via Warren's Ranch and transferred its operations to the new road. Such abandonment is important, because it withdraws, without authority, service from points where it has been established, and it can not be condoned because temporary difficulties may justify temporary changes.

Applicant also desires to reroute its operation between Buckman's Springs and Newton. The route now proceeds from Buckman's Springs in a southerly direction to a point called Dewey, about one mile north of Campo, and thence easterly by way of the Indian agency to Newton. A new road has been constructed between Buckman's Springs and Newton by way of La Posta, which shortens the distance several miles. No protest was made to this alteration of route, except by Mr. Humphries, who expressed the opinion that the service ought to be maintained, even though it has not received local patronage. There seems to be no objection to authorizing the abandonment and rerouting proposed in this portion of the application.

Protestant Pennoyer sought to show that applicant is serving Descanso without proper authority, but this matter is extraneous to the present proceeding.

We therefore find as a fact, upon the record herein, that applicant has shown good cause for all the changes proposed by it except the abandonment of service between San Diego and Newton (near a point called Hi-pass), which should, in the absence of any other adequate service, be denied. An order will accordingly be entered.

ORDER.

Pickwick Stages System, a corporation, having made application as above entitled, public hearings having been held, the matter having been duly submitted and now being ready for decision;

It is hereby ordered, that applicant Pickwick Stages System, a corporation, be and it is hereby authorized to change the routing of its stages, as applied for, as follows:

By abandoning the authorized route on its Big Bar-Orleans line from Eureka via Bald Mountain and Bairs, and adopting the new county road via Redwood House, Willow Creek and Hoopa, and it is hereby authorized to cancel its rates heretofore filed for Bald Mountain and Bairs.

By abandoning the authorized route between Bonsall and San Luis Rey River on its Los Angeles-San Diego inland route, and adopting in lieu thereof the new paved county highway between said points and crossing San Luis Rey River at the new bridge.

By abandoning the authorized route between Buckman's Springs and Newton on its San Diego-El Centro route, and adopting the highway between said points via La Posta; and it is hereby authorized to cancel its rates heretofore filed for Warren's Ranch and other points on its abandoned routing.

It is hereby further ordered, that applicant immediately restore its schedule and operation between San Diego and El Centro via Dulzura and Campo.

It is hereby further ordered, that that portion of the application herein seeking a certificate of public convenience and necessity to operate a new service south of Pismo Beach to Pismo Center, Oceano and Halcyon, be and the same hereby is dismissed without prejudice.

It is hereby further ordered, that in all other respects the application herein be and the same hereby is denied.

The effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this fourth day of October, 1927.

DECISION No. 18881.

IN THE MATTER OF THE APPLICATION OF RAY A. ANDERSON TO SELL,
AND JAMES T. AGAJANIAN TO PURCHASE, AUTOMOBILE FREIGHT
LINE OPERATED BETWEEN DAIRY RANCHES IN VICINITY OF
ARLINGTON, RIVERSIDE AND CORONA AND EL MONTE AND LOS
ANGELES.

Application No. 13904.

Decided October 4, 1927.

TRANSFER—CERTIFICATE—AUTO STAGES.—Application granted.**OPERATIVE RIGHTS—ELEMENT OF VALUE—MONOPOLY.**—Monopoly feature of certificate may be changed or destroyed at any time by the state, which is not limited to the number of rights which may be granted.*James T. Agajanian*, Applicant, *in propria persona*.*J. K. Hawkins*, Protestant.

BY THE COMMISSION.

OPINION.

Ray A. Anderson has made application to the Railroad Commission for authority to sell, and James T. Agajanian has applied for authority to purchase, an automobile freight line now operated by applicant Anderson for the transportation of milk and dairy supplies between dairy ranches in the vicinity of Arlington, Riverside and Corona, and El Monte and Los Angeles.

A public hearing herein was conducted by Examiner Williams at Los Angeles, at which time the matter was duly submitted and now is ready for decision.

The rights sought to be transferred were granted to applicant Anderson by Decision No. 15774 on Application No. 11197, dated December 21, 1925, and are for the transportation of milk and cream from dairy ranches in the district stated, over specific routes, and for the return movement of dairy supplies, and for no other service.

According to the agreement set up in the proceeding, applicant Agajanian is paying the sum of \$12,000 for the business, of which \$2,200 represents the value placed on the certificated rights, and \$9,800 the equipment, consisting of three trucks and one trailer. No request is made for alteration of rates or service, applicant Agajanian agreeing to continue the business as already certificated to Anderson.

The purchaser had some experience in milk transportation several years ago, and is now contractor for the removal of garbage and waste paper from the harbor district of Los Angeles, which contract he has held for several years. He testified that he is financially able to provide any equipment necessary in the development of the business sought to be acquired herein, and that payment for the business and certificate will be made in cash.

While J. K. Hawkins, operating a similar service under certificate of this Commission from territory contiguous to that served by applicant Anderson, appeared as a protestant to the transfer, he explained that he was interested only in confining Agajanian's operations to the exact area authorized by the Commission. Applicant Agajanian stated that he would adhere strictly to the area and routing fixed for Anderson, and that he intended no enlargement. Upon this assurance Mr. Hawkins' protest was withdrawn.

There appears to be no reason why the transfer herein sought should not be authorized and the order following this opinion will so provide. It should be noted, however, that the purchaser is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

ORDER.

Ray A. Anderson having made application to the Railroad Commission for authority to sell and transfer the automobile freight line operated by him between Arlington, Riverside and Corona, and El Monte and Los Angeles, as fixed by certificate granted by Decision No. 15774 on Application No. 11197, dated December 21, 1925, to James T. Agajanian, who joins in the application, a public hearing having been held, the matter having been duly submitted and now being ready for decision;

It is hereby ordered, that the application herein be and the same hereby is granted, subject to the following conditions:

I. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate-fixing body as a measure of value of said property for rate fixing or any purpose other than the transfer herein authorized.

II. Applicant Anderson shall immediately withdraw tariff of rates and time schedules on file with this Commission, covering service, certificate for which is herein authorized to be transferred; such withdrawal to be in accordance with the provisions of General Order No. 51.

III. Applicant Agajanian shall immediately file, in duplicate, his tariff of rates and time schedules covering service heretofore given by applicant Anderson, which rates and time schedules shall be identical with the rates and time schedules now on file with the Railroad Commission in the name of applicant Anderson, or rates and schedules satisfactory in form and substance to the Railroad Commission.

IV. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

V. No vehicle may be operated by applicant Agajanian under the authority hereby granted unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this fourth day of October, 1927.

DECISION No. 18891.

MABLE C. TWOMBLY, MRS. FLECK, MRS. C. D. BROYLES, A. E. BOYD,
MRS. J. L. HELTON, MRS. G. A. WRIGHT, G. A. WRIGHT AND MRS.
ADDIE REED

vs.

O. P. MILLS.

Case No. 2391.

Decided October 4, 1927.

SERVICE—WATER UTILITY—To IMPROVE.—Defendant ordered to make necessary improvements in his service, and to place in effect rules and regulations to eliminate friction with patrons over bills.

Harry Houser, for Complainants.

E. M. Rosenthal, for Defendant.

By THE COMMISSION.

OPINION.

The complaint herein alleges in effect that the water distributed through the public utility water system operated by the defendant under the fictitious name of Willow Glen Water Works and serving consumers in the vicinity of San Jose, California, is often dirty; that the pressure is insufficient; that the accounting methods used by the defendant are unsatisfactory and that his treatment of consumers has been abusive and insulting. These allegations are all denied in the answer filed by the defendant.

Public hearings were held by Examiner Vaughan at San Jose, and the matter was duly submitted and is now ready for decision.

The testimony of the majority of complainants' witnesses was to the effect that the water supply was frequently discolored and contained considerable sediment; that the water pressure was often too low for domestic use; and that on several occasions the water service was discontinued for several hours at a time without previous notice of such discontinuance having first been given to the consumers. These witnesses also testified that water bills were not rendered regularly; that the bills did not always show the previous month's meter readings and that in case it was necessary to complain of an incorrect bill or against the service, these complaints were met with insult and abuse. Consumers residing on Jonathan avenue testified that the service was very poor and that the street was served by a two-inch main.

Defendant introduced testimony contradicting that adduced through complainants' witnesses. County officials and highway officials testified to the effect that the pipe observed by them in the course of their duties was in good condition, but that numerous leaks occurred on the system and that the defendant was slow in repairing them.

From the evidence, it is clear that discolored water is at times delivered through this system; that the water pressure is frequently too low to provide an adequate service; that the two-inch pipe serving consumers on Jonathan avenue is too small to adequately serve said consumers; that the defendant does not present his monthly water bills with regularity and that he is not always courteous in his dealings with his consumers.

It is likewise clear from the record that the well provides an ample water supply and the pump, automatic control installation, pressure system and storage tank are in good condition and are properly maintained, and that, in general, the mains are of sufficient size to render reasonable service. However, in order to provide better service in certain areas and to inform consumers of their rights and privileges, it is recommended that the defendant should increase the water pressure on the system to a minimum of fifty pounds; that he should replace 850 feet of two-inch pipe on Jonathan avenue with three-inch pipe; that all water bills rendered for metered service should show the meter readings for both past and current months, and that the following should be printed on the reverse side of the bills for both flat and metered service:

RULE AND REGULATION No. 10—DISPUTED BILLS.

In case a dispute should arise over the correctness of any bill rendered for water service, the company will notify the consumer in writing to deposit for adjustment with the Railroad Commission, at San Francisco, the full amount of the presented bill. Such deposit made with the Railroad Commission will preclude the company from shutting off service for the nonpayment of the disputed account pending the settlement thereof by the Commission. Failure on the part of the consumer to make such deposit with the Railroad Commission within 15 days after receipt of written notice thereof will warrant the company in discontinuing the service without further notice until the bill has been paid.

ORDER.

Complaint, as above named and numbered, having been filed with this Commission, public hearings having been held thereon, the matter having been duly submitted and being now ready for decision:

It is hereby found as a fact that the service rendered by O. P. Mills, operating under the fictitious name and style of Willow Glen Water Works, is inadequate in certain areas as to pressure; that water bills do not always show the preceding month's meter readings or provide information regarding adjustments of disputes by the Railroad Commission.

Basing its order on the foregoing findings of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that the defendant, O. P. Mills, operating a public utility water system under the fictitious name and style of Willow Glen Water Works, be and he is hereby directed and ordered to increase, within thirty days from the date of this order, the water pressure on said system to, and thereafter maintain at, a minimum pressure of fifty pounds at the pressure tanks.

It is hereby further ordered, that the defendant be and he is hereby directed and ordered to replace with three-inch I. D. pipe, or larger, 850 feet of two-inch pipe over and along Jonathan avenue and serving consumers on such street, said replacement to be completed and in proper operation within sixty days from the date of this order.

It is hereby further ordered, that the defendant be and he is hereby directed and ordered to set out the meter readings of both the current month and the month immediately preceding on all water bills rendered for metered service, said meter readings to appear on all bills for metered service sent out subsequent to the date of this order.

It is hereby further ordered, that the defendant be and he is hereby directed and ordered to revise the present Rule No. 10 of his rules and regulations to read as follows:

RULE AND REGULATION No. 10—DISPUTED BILLS.

In case a dispute should arise over the correctness of any bill rendered for water service, the company will notify the consumer in writing to deposit for adjustment with the Railroad Commission, at San Francisco, the full amount of the presented bill. Such deposit made with the Railroad Commission will preclude the company from shutting off service for the nonpayment of the disputed account pending the settlement thereof by the Commission. Failure on the part of the consumer to make such deposit with the Railroad Commission within 15 days after receipt of written notice thereof will warrant the company in discontinuing the service without further notice until the bill has been paid.

Said Rule No. 10, as revised, is to be printed on all bills sent to consumers for flat and metered water service after the date of this order.

It is hereby further ordered, that the defendant notify this Commission in writing that the provisions of this order have been properly complied with within ten days of compliance therewith.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourth day of October, 1927.

DECISION No. 18892.

IN THE MATTER OF THE APPLICATION OF NAPA VALLEY BUS COMPANY, A CORPORATION, FOR LEAVE TO ISSUE SECURITIES, TO WIT, SHARES OF CAPITAL STOCK.

Application No. 13883.

Decided October 4, 1927.

SECURITIES—STOCK—TO ISSUE.—Application to issue \$15,000 of common stock to finance in part purchase of equipment, granted.

BY THE COMMISSION.

ORDER.

Whereas, the Railroad Commission, by Decision No. 18217, dated April 11, 1927, granted to Napa Valley Bus Company, a corporation, a certificate of public convenience and necessity for the operation of an auto stage service as a common carrier of passengers between Calistoga and Vallejo; and

Whereas, Napa Valley Bus Company, in the above entitled matter, has applied to the Railroad Commission for permission to issue and sell at this time, at par, \$15,000 of its common capital stock for the purpose of financing the cost of two X-21 type, 21-passenger yellow coaches, at a cost of \$6,226.65 each, and other equipment immediately necessary to perform the service for which certificate was granted it, and to issue and sell, from time to time, an additional \$35,000 of common stock to purchase additional equipment when needed, and

Whereas, the Commission is of the opinion that this is a matter in which a public hearing is not necessary and that the money, property or labor to be procured or paid for through the issue of \$15,000 of the stock herein authorized is reasonably required for the purposes specified herein and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income, and that the issue of \$35,000 of stock should not at this time be authorized for the reason that applicant has not shown the necessity for such issue; therefore,

It is hereby ordered, that Napa Valley Bus Company be and it hereby is authorized to issue and sell, at not less than par, on or before December 31, 1928, not exceeding \$15,000 of its common capital stock and use the proceeds from the sale of the stock herein authorized to purchase two X-21 type, 21-passenger yellow coaches and other equipment and to provide working capital.

It is hereby further ordered, that applicant shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's

General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this fourth day of October, 1927.

DECISION No. 18909.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF THE RATES, CHARGES, PRACTICES, CONTRACTS, RULES, REGULATIONS, SCHEDULES AND CONDITIONS OF SERVICE, OR ANY OF THEM, OF J. J. HARRIGAN, OPERATING A PUBLIC UTILITY WATER SYSTEM IN WATSONVILLE JUNCTION, CALIFORNIA.

Case No. 2379.

Decided October 8, 1927.

COMMISSION'S INVESTIGATION—WATER UTILITY—SERVICE—RATES.—Serving notice on the utility operator that it will not further tolerate non-compliance with its orders for the improvement of service, and the elimination of abuses, a schedule of rates is established calculated to permit the operation of an adequate service, and the abatement of the waste of water on unmetered service.

A. D. Barber, for Defendant.

Harry See, Lodge 876 Brotherhood of Railroad Trainmen, for Consumers.

BY THE COMMISSION.

OPINION.

This is a proceeding instituted on the Commission's own motion for the purpose of inquiring into the reasonableness of the rates, charges, practices, contracts, rules, regulations, schedules and conditions of service, or any of them, of J. J. Harrigan, who owns and operates a public utility water system and furnishes water for domestic use in Watsonville Junction, Monterey County.

A great many complaints alleging inadequate and interrupted service have been made by the consumers against the operator of this water system. All informal efforts upon the part of the Commission to have the owner of the utility remedy conditions complained of were ignored. The Commission, therefore, ordered this investigation upon its own motion to determine the reasons, if any existed, for the refusal of J. J. Harrigan to improve the inadequate service existing on this system.

A public hearing was held in the above entitled proceeding before Examiner Gannon at Watsonville Junction, Monterey County, after all interested parties had been notified and given an opportunity to appear and be heard.

The evidence shows that in 1910 J. J. Harrigan drilled a well upon his residence property and developed a water supply for his own private use. As a matter of accommodation, he thereafter furnished

water to a few neighbors for which service he charged a nominal sum. From time to time, others requested water and he gradually extended the distribution pipes until he now serves the entire community. The water is elevated from a well by an automatically-controlled, electrically-driven centrifugal pump into a 10,000-gallon redwood tank located on a 16-foot tower. Distribution is by gravity to about thirty-seven consumers through approximately 1950 feet of pipe, ranging from three inches to one inch in diameter.

The rates now in effect are as follows:

<i>Monthly Flat Rates.</i>	
Dwellings, per month-----	\$1 75
Hotel, per month-----	5 00

The testimony of the consumers showed that for several years last past they have been, and are now, compelled throughout the entire summer to store water in their bathtubs for the flushing of toilets and for cooking; that hot water facilities can not be used because of lack of pressure; that it is rarely possible to have running water in the second story of a building; that the greater part of the time no running water can be obtained on the ground floors of their homes; that frequently water must be carried from faucets in yards for the flushing of toilets and for domestic purposes; that consumers have repeatedly complained to Horrigan regarding the poor service conditions but have obtained no relief and that the storage tank is not kept filled and can not be so kept because of the shrunken and dilapidated condition of the staves in the upper half of the tank.

Mr. Horrigan testified that practically all the consumers have lawns and vegetable gardens; that these are irrigated by allowing water to run at all hours of the day and night through open hoses without nozzles; that the waste of water by the consumers is the sole cause of poor service and that all the distribution pipe lines are in good condition.

From the evidence, it is clear that this utility has been mismanaged and that the owner has made no reasonable efforts to provide proper and continuous service, or to take the necessary steps to remedy conditions when consumers have made reasonable complaints. Every utility, as long as it is operating as such, is required by this Commission to give a reasonable and proper service to its consumers for the charges collected, and when service is not proper, it is the duty of the utility, without delay, to take reasonable steps to provide adequate service to consumers when complaint is made. The past operations of this utility have been characterized by a total disregard of the rights of its consumers and the public, wholly unjustified by any of the evidence presented in this proceeding. The Commission will insist

that the owner of this utility give proper consideration to his consumers in any and all matters affecting his public utility service and, where complaints are justified, will insist that immediate measures be taken to remedy unsatisfactory conditions. It should be entirely unnecessary for this Commission to go to the extreme of resorting to a formal proceeding to compel compliance with its informal suggestions and recommendations involving such minor matters.

D. H. Harroun, one of the Commission's hydraulic engineers, presented a report showing that for the year 1926 the revenues and operating expenses of this utility were \$480 and \$300, respectively, according to the annual reports filed by J. J. Horrigan with this Commission, leaving a net operating revenue of \$180 for the year. However, the evidence discloses that said Horrigan is the owner of nine residences in Watsonville Junction which are rented to consumers of water, for which service of water no amounts have been included in the annual reports to the Commission. These additional revenues would increase the total annual gross revenue to \$669. The report of the Commission's engineer further shows that the estimated original cost of the used and useful properties of this utility, as of August 1, 1927, is \$1,860, the replacement annuity \$41, computed by the 5 per cent sinking fund method, and that the sum of \$428 is estimated to be the fair and reasonable amount for maintenance and operation expenses for the immediate future.

Based upon the foregoing figures, the operations for 1926 have resulted in a return somewhat in excess of 8 per cent upon the investment. This utility is therefore in an exceedingly prosperous financial condition and from this standpoint has no legitimate excuse for the deplorable service which it has been rendering its consumers.

A summary of the evidence shows that the rates in effect are providing ample revenues to enable the owner Horrigan to give good and proper service; that such service has not been given and that during the summer months the condition generally obtains that there is not sufficient water delivered to the majority of the consumers to properly provide for the necessary sanitary requirements, resulting in a very serious menace to the health and welfare of the entire community. The evidence further shows that the tank is badly in need of repair and can not be used to full capacity by reason of its dilapidated condition, and that it is not of sufficient elevation to insure proper pressure.

This Commission will require J. J. Horrigan to repair or replace the present tank so that it may be used to full capacity at all times and to increase the height of said tank so that the bottom thereof shall be at least thirty feet above the surface of the ground at its present location. The automatic control system for the operation of the pump and

delivery of water into the tank shall be placed and maintained in proper operating condition to the end that the tank is kept filled to full working capacity to the extent of the well supply and pumping equipment as limited by the demands upon the stored waters by consumers.

The evidence indicates that some consumers have wasted water through open hoses to the detriment of other users. While this may have been the case frequently, it is without a doubt the result of failure on the part of Horrigan to supply proper and adequate water, making it sometimes necessary to so use water in order to obtain any at all. While the Commission entirely disapproves of the irrigating of lawns and gardens through the unrestricted use of water by open hoses in cases where water is not abundant, it is clear in this particular instance that the consumers are not wholly to blame. In order to correct this evil and at the same time to conserve the water supply, it is suggested that the entire system be metered at as early a date as possible. In all events, the owner of this utility should at once install a meter upon the service of any consumer who shows evidence of carelessness or wastefulness in the use of water in order to protect the other consumers in their right to receive adequate water. As there is no schedule of rates for measured service on this system at present, the order herein will provide for such a rate. The owner of this utility will also be required to file revised rules and regulations with this Commission which, among other things, shall forbid the use of water on flat rate services from open hoses upon penalty of discontinuance of water service for failure to observe.

The owner of this utility may rest assured that this Commission will no longer tolerate the poor service rendered by him; nor will it further permit the past inconsiderate treatment of his consumers and the continued ignoring of the instructions of this Commission. It should be distinctly understood that, in the event said J. J. Horrigan fails to comply properly with the terms of this order and improve, in a manner satisfactory to this Commission, the conditions of service complained of, this Commission will have no other course than to compel such compliance in the manner prescribed by law.

ORDER.

The Railroad Commission of the State of California having instituted an investigation on its own motion into the reasonableness of the rates, charges, practices, contracts, rules, regulations, schedules and conditions of service, or any of them, of J. J. Horrigan, operating a public utility water system in Watsonville Junction, Monterey County, a public hearing having been held thereon, and the matter having been submitted:

It is hereby found as a fact that public convenience and necessity require and will require the establishment of a schedule of meter rates, in addition to the existing flat rates, to be charged by said J. J. Horrigan for any and all measured service to be rendered hereafter by him, and it is hereby further found as a fact that the schedule of meter rates established herein is just and reasonable for such service, and basing its order on the foregoing findings of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, as follows:

1. That J. J. Horrigan be and he is hereby authorized and directed to file with this Commission within thirty (30) days from the date of this order the following schedule of meter rates to be charged for all measured service rendered subsequent to the date of this order:

Meter Rates.

Minimum Monthly Charges:

$\frac{5}{8}$ -inch x $\frac{1}{2}$ -inch meter.....	\$1 75
$\frac{3}{4}$ -inch meter.....	2 00
1 -inch meter.....	2 50
1 $\frac{1}{2}$ -inch meter.....	3 50

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the following monthly quantity rates.

Monthly Quantity Charges:

0 to 500 cubic feet, per 100 cubic feet.....	\$0 35
Next 500 cubic feet, per 100 cubic feet.....	25
Next 3500 cubic feet, per 100 cubic feet.....	15
All over 4500 cubic feet, per 100 cubic feet.....	12

2. That J. J. Horrigan repair and thereafter maintain the present storage tank so that it may be used to its full working capacity at all times or replace said tank with another tank, in proper condition, of equal or greater capacity.

3. That J. J. Horrigan increase the height of the present tank, or any tank substituted therefor, so that the bottom thereof shall be at an elevation not less than thirty feet from the surface of the ground at the present location of said tank.

4. That the automatic equipment controlling the operation of the pumping facilities be so adjusted, altered or improved as to maintain the storage tank or tanks in use at full working capacity at all times, subject to the system demands.

5. That J. J. Horrigan complete and have in proper working order, to the satisfaction of this Commission, the improvements directed to be made in the order herein on or before sixty (60) days from the date of this order, and that said J. J. Horrigan notify this Commission in

writing of the date of the completion of said improvements within ten (10) days thereof.

6. That J. J. Horrigan be and he is hereby directed to file with this Commission within thirty (30) days from the date of this order revised rules and regulations governing his relations with his consumers, said rules and regulations to become effective upon acceptance for filing by this Commission.

It is hereby further ordered, that in the event that the improvements ordered herein do not result in producing proper and adequate service to the consumers, this Commission reserves the right to direct, by supplemental order, the installation of such additional improvements as the Commission may in its judgment consider necessary and proper.

For all other purposes the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this eighth day of October, 1927.

DECISION No. 18918.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, A CALIFORNIA CORPORATION, FOR AN ORDER AUTHORIZING IT TO SELL, AND OF SOUTHERN CALIFORNIA GAS COMPANY, A CALIFORNIA CORPORATION, FOR AN ORDER AUTHORIZING IT TO BUY, ALL OF THE PROPERTY OF SAID MIDWAY GAS COMPANY; OF SAID SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE BONDS AND APPROVING THE FORM OF THE MORTGAGE (TO BE EXECUTED BY BOTH SOUTHERN CALIFORNIA GAS COMPANY AND MIDWAY GAS COMPANY) SECURING THE SAME; AND OF SAID SOUTHERN CALIFORNIA GAS COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISE RIGHTS.

Application No. 13898.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, TO BUY ALL OF THE CAPITAL STOCK AND ALL THE PROPERTIES OF CENTRAL COUNTIES GAS COMPANY AND OF CENTRAL COUNTIES GAS COMPANY TO SELL ALL OF ITS PROPERTIES (LOCATED IN THE CITY OF LINDSAY, COUNTY OF TULARE; CITY OF TULARE, COUNTY OF TULARE; CITY OF EXETER, COUNTY OF TULARE; CITY OF PORTERVILLE, COUNTY OF TULARE; CITY OF VISALIA, COUNTY OF TULARE AND IN THE COUNTY OF TULARE); FOR AUTHORITY FOR MIDWAY GAS COMPANY TO ISSUE AND SELL SHORT TERM NOTES IN PAYMENT THEREFOR; AND OF MIDWAY GAS COMPANY FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISE RIGHTS GRANTED BY SAID CITIES IN SAID COUNTY.

Application No. 13972.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, TO BUY ALL OF THE CAPITAL STOCK AND ALL OF THE PROPERTIES OF HANFORD GAS AND POWER COMPANY AND OF HANFORD GAS AND POWER COMPANY TO SELL ALL OF ITS PROPERTIES LOCATED IN THE CITY OF HANFORD; FOR AUTHORITY FOR MIDWAY GAS COMPANY TO ISSUE AND SELL SHORT TERM NOTES IN PAYMENT THEREFOR; AND OF MIDWAY GAS COMPANY

FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO EXERCISE FRANCHISE RIGHTS IN SAID CITY OF HANFORD.

Application No. 13973.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY,
TO BUY ALL OF THE CAPITAL STOCK AND ALL OF THE PROP-
ERTIES OF RIVERBEND GAS AND WATER COMPANY AND OF
RIVERBEND GAS AND WATER COMPANY TO SELL ALL OF ITS
PROPERTIES (LOCATED IN THE CITY OF DINUBA, COUNTY OF
TULARE; CITY OF KINGSBURG, COUNTY OF FRESNO; CITY OF
SANGER, COUNTY OF FRESNO; CITY OF REEDLEY, COUNTY OF
FRESNO; AND IN THE COUNTIES OF FRESNO AND TULARE); FOR
MIDWAY GAS COMPANY TO ISSUE AND SELL SHORT TERM NOTES
AS PAYMENT THEREFOR; AND OF MIDWAY GAS COMPANY FOR
A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY
TO EXERCISE CERTAIN FRANCHISES GRANTED BY SAID CITIES
AND COUNTIES.

Application No. 13974.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY,
TO BUY ALL OF THE PROPERTIES OF VALLEY NATURAL GAS
COMPANY AND OF VALLEY NATURAL GAS COMPANY TO SELL
ALL OF ITS PROPERTIES LOCATED IN THE COUNTY OF KERN:
FOR AUTHORITY FOR MIDWAY GAS COMPANY TO ISSUE AND
SELL SHORT TERM NOTES IN PAYMENT FOR SAID PROPERTIES;
AND OF MIDWAY GAS COMPANY FOR A CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRAN-
CHISE RIGHTS IN SAID COUNTY OF KERN.

Application No. 13975.

Decided October 11, 1927.

TRANSFER—GAS UTILITY—To ACQUIRE—BONDS—STOCK—To ISSUE.—Midway Gas
Company authorized to acquire outstanding stock and properties of Central
Counties Gas Company, Hanford Gas and Power Company, Riverbend Gas and
Water Company, Valley Natural Gas Company; and Midway Gas Company
authorized to sell all of these and its own properties to Southern California
Gas Company. The latter is authorized to issue and sell \$8,646,000 of its first
mortgage and refunding 5 per cent gold bonds, due September 1, 1957, at
not less than 94 per cent of par value, plus accrued interest; and \$5,000,000
of common stock in payment therefor.

INTERIM FINANCING—BONDS—To ISSUE.—Pending the issue of the foregoing
securities Southern California Gas Company authorized to issue not exceeding
\$6,747,000 of first and refunding mortgage 5½ per cent gold bonds, Series "B",
due September 1, 1952, and to deliver not exceeding \$3,740,000 of said bonds
in settlement of bank indebtedness, provided that the company make arrange-
ments for the re-purchase of these bonds at par when the 5 per cent bonds
herein authorized are issued.

Thos. J. Reynolds, for Applicants.

BY THE COMMISSION.

OPINION.

At the hearing had in the above entitled matters on August 10th the
same were consolidated for hearing and decision.

On September 30th Midway Gas Company and Southern California
Gas Company filed with the Commission a supplemental petition in
Application No. 13898 in which they ask that the Commission, in lieu

of making an order, as asked for in the applications to which the petition filed on said September 30th is a supplement, the Railroad Commission make its order, that:

"(1) Midway Gas Company may sell and transfer, and Southern California Gas Company may purchase and acquire, subject to existing mortgages thereon, all of the properties, franchises and other assets of Midway Gas Company (including therein the properties, franchises and other assets of Valley Natural Gas Company, Central Counties Gas Company, Hanford Gas and Power Company and Riverbend Gas and Water Company, which Midway Gas Company proposes to acquire if and when permitted so to do in accordance with applications to that effect now on file with this Commission), in consideration of the payment to Midway Gas Company of \$12,795,200, in cash (or its equivalent in bonds and/or common stock as below asked for) and the assumption, payment or discharge by Southern California Gas Company of all of the debts and other obligations of Midway Gas Company (including those of the above mentioned companies, the assets of which Midway Gas Company proposes to acquire as above mentioned).

(2) Southern California Gas Company may execute a mortgage or deed of trust substantially in the same form as the proposed Indenture dated as of September 1, 1927, of Southern California Gas Company to The Chase National Bank of the City of New York and to Union Bank & Trust Co. of Los Angeles as Trustees, filed with this supplemental application; and Midway Gas Company may execute an indenture subjecting its properties and franchises (not therein excepted) to the lien and charge of said last mentioned mortgage or deed of trust, such indenture to be in substantially the same form as the proposed Indenture dated September 1, 1927, of Midway Gas Company to said The Chase National Bank of the City of New York and to Union Bank & Trust Co. of Los Angeles as Trustees, (filed on September 30th) with this supplemental application.

(3) Southern California Gas Company may issue and sell not exceeding 200,000 shares of its common capital stock of the par value of \$25 each at a price or prices equivalent in the aggregate to not less than \$50 for each share issued, and also \$8,646,000 in principal amount of its 30-year 5 per cent bonds due September 1, 1957, designated as its 'First Mortgage and Refunding Gold Bonds, 5 per cent Series due 1957' (being the bonds of the first series described in said proposed Mortgage and Deed of Trust and the issuance of which is authorized by the provisions of S3.03 thereof), and use the proceeds of said bonds and common stock as follows, namely:

(a) \$12,795,200 to be paid Midway Gas Company as aforesaid;

(b) \$3,740,000, to the payment of indebtedness to banks incurred by Southern California Gas Company and Midway Gas Company in connection with the purchase and/or redemption on September 1, 1927, of \$2,747,000 of First and Refunding Mortgage 7 per cent Bonds, Series 'A,' of Southern California Gas Company, and \$883,000 of First Mortgage 6 per cent Bonds of Midway Gas Company, or to the repurchase of any First and Refunding Mortgage 5½ per cent Bonds, Series 'B,' which may be issued for that purpose as below asked for;

(c) \$442,739 to the payment of the notes which will have been issued by Midway Gas Company in payment for the capital stocks of Central Counties Gas Company, Hanford Gas and Power Company and Riverbend Gas and Water Company;

(d) \$513,230 to the purchase or redemption of the outstanding bonds of the three companies last mentioned not heretofore purchased by Southern California Gas Company;

(e) And the balance, if any, together with the amount received by Southern California Gas Company as accrued interest on the bonds so issued, to reimburse the treasury of Southern California Gas Company for expenditures made out of its general funds in the purchase or redemption of bonds of the issues above mentioned and for general corporate purposes.

(4) Southern California Gas Company may deliver, and Midway Gas Company may accept, if and upon such terms as they may agree to as between themselves, bonds and/or shares of common stock of Southern California Gas Company, the issuance of which is above asked for, at not less than the prices therefor above asked to be authorized respectively, in lieu of the cash payment of \$12,795,200 or any part thereof.

(5) Southern California Gas Company may, pending the issuance of said new bonds and shares of common stock, issue not exceeding \$6,747,000 principal amount

of its First and Refunding Mortgage 5½ per cent Gold Bonds, Series 'B,' due September 1, 1952, and may deliver not exceeding \$3,740,000 thereof at not less than par and accrued interest, in settlement of all or any part of the bank indebtedness of \$3,740,000 above mentioned, provided that it shall make such arrangements with said banks as will enable it to repurchase the bonds so issued upon the issuance by it of the new thirty-year 5 per cent bonds above asked for; and Southern California Gas Company may pledge and deposit all of said First and Refunding Mortgage 5½ per cent Bonds, Series 'B' (including any thereof issued as aforesaid and repurchased), with Union Bank & Trust Co. of Los Angeles as California Trustee under the above mentioned proposed Indenture of Southern California Gas Company dated September 1, 1927.

(6) Southern California Gas Company be granted a Certificate of Public Convenience and Necessity to take, operate under, and exercise all rights and privileges and assume all burdens and obligations under each and all of the franchises and other contracts of Midway Gas Company (including those of said Valley Natural Gas Company, said Central Counties Gas Company, said Hanford Gas and Power Company and said Riverbend Gas and Water Company) transferred to Southern California Gas Company.

(7) For such other and further order and relief in the premises as to this Commission may seem just and meet."

In Applications Nos. 13972, 13973 and 13974, as amended at the hearing had on August 10th, the Midway Gas Company asks permission to acquire all of the capital stock of Central Counties Gas Company, Hanford Gas and Power Company and Riverbend Gas and Water Company, and said Central Counties Gas Company, Hanford Gas and Power Company and Riverbend Gas and Water Company ask permission to sell all of their properties to Midway Gas Company, which asks permission to purchase said properties, and for a certificate of public convenience and necessity to exercise certain franchise rights granted to said companies.

In Application No. 13975, as amended at the hearing had on August 10th, the Valley Natural Gas Company asks permission to sell all of its properties to Midway Gas Company, which asks permission to purchase said properties and for a certificate of public convenience and necessity to exercise certain franchise rights in Kern County.

Riverbend Gas and Water Company, organized in 1915, is engaged in manufacturing and selling artificial gas in Dinuba, Reedley, Kingsburg, Parlier and vicinity and in producing and selling water in Parlier and vicinity. For the year 1926 the company reports operating revenues from the sale of gas in the amount of \$87,590 and from the sale of water in the amount of \$5,933.19. The company has \$173,417 of stock and \$190,000 of funded debt outstanding.

The Hanford Gas and Power Company was organized in 1902 and is engaged in manufacturing and selling artificial gas in Hanford. For 1926 the company reports operating revenues of \$59,921.67. It has \$100,000 of stock and \$70,000 of funded debt outstanding.

The Central Counties Gas Company was organized in 1918 and is engaged in manufacturing and selling artificial gas in Visalia, Porterville, Lindsay, Tulare, Exeter and vicinities. For 1926 it reports

operating revenues of \$246,688.30. Its outstanding stock is reported at \$182,199; its funded debt at \$562,000.

By Decision No. 6633 dated August 30, 1919 (Volume 17, Opinions and Orders of the Railroad Commission of California, page 248) the Commission authorized Midway Gas Company to purchase the stock of Valley Natural Gas Company and permitted Valley Natural Gas Company to lease its properties to Midway Gas Company.

Upon the acquisition of the stock of the companies mentioned, by Midway Gas Company, that company would cause the properties of the several companies to be transferred to it. In payment for the stock the Midway Gas Company would issue \$442,739 of short term notes and assume all the obligations of the companies and acquire all of their current assets. Upon the discharge of the obligations the several companies would be dissolved and the notes which they have received in payment for their properties would be returned to the Midway Gas Company. The net cost of the properties to the Midway Gas Company as of April 30, 1927, is reported at \$1,442,642.42 which is segregated as follows:

Stock	\$442,739 00
Redemption of \$822,000 of bonds.....	846,380 00
Payment of current liabilities.....	210,230 11
Payment of accrued liabilities.....	38,742 95
Construction deposits to be returned.....	1,862 97
A. E. Peat, suspense account.....	34,352 50
Total cost.....	\$1,574,307 53
Deduct current assets.....	131,665 11
Leaving net cost of.....	\$1,442,642 42

Upon the acquisition of the properties, Midway Gas Company intends to execute an indenture which shall be a direct first lien on its properties. Thereafter it will transfer its properties, including those of the other companies mentioned, to the Southern California Gas Company with the result that the first mortgage and refunding gold bonds of the Southern California Gas Company will be a first lien on the properties, formerly owned by Midway Gas Company. A revised copy of the proposed indenture was filed on September 30th in Application No. 13898.

The Midway Gas Company was organized in 1911. It is engaged as a public utility, in producing, buying, collecting, transmitting, distributing, and selling natural gas in the counties of Kern, Ventura, Los Angeles and Orange, State of California, and in some of the cities and towns located in said counties, to a few domestic and commercial consumers, to several large industrial consumers and to other large public utility companies who in turn are engaged in distributing the same. The company asks permission to sell and Southern California

Gas Company permission to buy all of the property of Midland Gas Company, including the properties of said Valley Natural Gas Company, said Central Counties Gas Company, said Hanford Gas and Power Company and said Riverbend Gas and Water Company, if acquired by said Midway Gas Company, real, personal and/or mixed and wheresoever situated, including all physical property, franchises, permits, easements, rights and other privileges. The Southern California Gas Company desires to assume all of the debts and obligations of Midway Gas Company and that company will take all the benefits and assume all the burdens of the contracts and franchises of Midway Gas Company and will perform all the duties of a public service corporation, previously performed by Midway Gas Company, and further desires a certificate of public convenience and necessity to take, operate under and exercise all rights and privileges and assume all burdens and obligations under each of the franchises and other contracts of Midway Gas Company.

The Southern California Gas Company asks permission to pay for the properties of Midway Gas Company \$12,795,200 and in addition assume all of the indebtedness of that company. If the Southern California Gas Company pays that sum for the properties it must be received from the sale of securities authorized by the order herein and may not be obtained by incurring any indebtedness, or by using earnings other than surplus earnings available for the payment of dividends.

Southern California Gas Company asks permission to issue and sell at not less than 94 per cent of face value and accrued interest, \$8,646,-000 of 30-year 5 per cent bonds due September 1, 1957, and to issue and sell not exceeding 200,000 shares of its common capital stock of the par value of \$25 each at a price or prices equivalent in the aggregate to not less than \$50 for each share issued, and to use said bonds and/or said common stock and/or the proceeds from the sale thereof for purposes indicated on pages three and four of this opinion.

The order herein will authorize the issue of the common stock at not less than par.

The Southern California Gas Company also asks permission to execute a mortgage and/or deed of trust to secure the payment of its first mortgage and refunding gold bonds. A copy of this mortgage has been filed September 30th in Application No. 13898. It provides, among other things, that the trustees may from time to time certify bonds equal in amount to 75 per cent of the cost or reasonable value, whichever is less, of property acquired. While we have no objection to the execution of the mortgage containing such a provision, it should be understood that by authorizing the execution of said mortgage, the Commission will be

under no obligation to authorize the issue of bonds up to 75 per cent of said cost or reasonable value, it being the policy of the Commission to allow not to exceed 60 per cent of such cost or reasonable value except under extraordinary conditions.

Southern California Gas Company also asks permission to issue not exceeding \$6,747,000 of its first and refunding mortgage 5½ per cent gold bonds, Series "B," due September 1, 1952, and to deliver not exceeding \$3,740,000 thereof at not less than par and accrued interest in settlement of all or any part of the bank indebtedness of \$3,740,000 mentioned above, provided it can make such arrangements with the banks as will enable it to repurchase the bonds so issued upon the issuance by it of the new thirty-year 5 per cent bonds. Upon the reacquisition of the \$3,740,000 of bonds, said \$3,740,000 and the remaining \$3,007,000 of said Series "B" bonds, they will be deposited with the Union Bank and Trust Company, as security for the payment of the company's new first mortgage and refunding gold bonds.

Appraisals of the properties and financial statements of the different companies were submitted by witnesses for applicants. In Exhibit No. 6 the historical cost of the combined properties, using present value of land and including working capital, but nothing for going value, development costs, cost of financing and value of gas purchase contracts, is reported at \$48,404,970. Applicant's witnesses testified that no study was made of the accrued depreciation, and that they were unable to inform the Commission of the estimated historical cost of the properties less depreciation. The financial statements submitted, however, do show reserves for accrued depreciation. The reproduction cost new of the consolidated properties as of August 31, 1927, is reported (Exhibit No. 7) at \$66,030,100 which included \$3,005,200 for cost of financing, and \$5,925,000 for going value. The reproduction cost new less depreciation is reported at \$65,270,100. It was explained that the only amount deducted was the estimated cost, \$760,000, to place the properties in a 100 per cent operating condition.

The appraisals and financial statements submitted were examined by us and the conclusion reached that Southern California Gas Company should not issue more than \$17,000,000 of first mortgage and refunding gold bonds and \$5,000,000 of common stock in place of the \$26,785,000 of bonds requested at the hearings to consolidate the properties of the several companies and refund indebtedness referred to in the applications. In order to avoid duplicate interest charges the Southern California Gas Company has concluded not to refund at this time \$8,354,000 of its bonds, with the result that the request to issue first mortgage and refunding bonds has been reduced from \$17,000,000 to \$8,646,000.

As of April 30, 1927, the Southern California Gas Company reports stocks and bonds outstanding as follows:

Common stock.....	\$6,000,000 00
Preferred stock.....	3,840,350 00
Stock subscriptions preferred.....	513,294 50
Total stock.....	\$10,353,644 50
Bonds.....	17,242,000 00
Total stock and bonds.....	\$27,595,644 50

The outstanding bonds consist of \$4,295,000 of first mortgage sixes due November 1, 1950; of \$2,747,000 of first and refunding Series "A" sevens due March 1, 1951; of \$6,200,000 of first and refunding series "B" five and one-halves due September 1, 1952; and of \$4,000,000 of first and refunding Series "C" sixes due June 1, 1958. Since April 30, 1927, the company has redeemed the \$2,747,000 of 7 per cent bonds at 107½. The Midway Gas Company has also redeemed its \$883,000 of 6 per cent bonds at par. To redeem the bonds the two companies borrowed from banks \$3,740,000.

Upon the completion of the financing to which reference has been made, Southern California Gas Company will have outstanding in the hands of the public, stocks and bonds as follows:

Common stock.....	\$11,000,000 00
Preferred stock.....	3,840,350 00
Preferred stock subscribed.....	513,294 00
Bonds.....	23,200,000 00
Total.....	\$38,553,644 00

Midway Gas Company and Southern California Gas Company ask that they be granted certificates of public convenience and necessity to take, operate under and exercise all rights and privileges and assume all burdens and obligations under each and all of the franchises and other contracts which they intend to acquire. A list of the franchises has been filed in this proceeding. There is nothing, however, in the record to indicate to what extent the several companies or their predecessors in interest have exercised the rights and privileges granted in said franchises, neither does the testimony show that public convenience and necessity require the Midway Gas Company or the Southern California Gas Company to exercise the rights and privileges under each and every franchise. We believe that this Commission, before granting a certificate of public convenience and necessity such as requested, should be furnished with a statement showing the extent to which the several companies or the grantees of the franchises have operated under each of the franchises and that public convenience and necessity require the granting of the certificate requested. The several companies may transfer whatever interest they may have in the franchises, but no certificate of public convenience and necessity such as

requested will be granted until the Commission is furnished with the information referred to and such other information as will justify it to grant the certificate requested. Applicants should also file a stipulation duly authorized by their board of directors declaring that they, their successors and assigns will never claim before the Railroad Commission or any court or other public body as a value for the rights and privileges granted under each and every franchise an amount in excess of the amount actually paid therefor. The amount paid for each franchise should be set forth in the stipulation.

ORDER.

The Commission having been asked to enter its order as indicated in the foregoing opinion, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of \$8,646,000 of 5 per cent first mortgage and refunding gold bonds and \$5,000,000 of common stock and \$6,747,000 of 5½ per cent first and refunding mortgage bonds is reasonably required by the Southern California Gas Company, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that these applications should be granted, as herein provided; therefore,

It is hereby ordered, as follows:

1. Midway Gas Company may acquire the outstanding stock of Central Counties Gas Company and said Central Counties Gas Company may sell all of its properties, more particularly described in Exhibit No. 10, to Midway Gas Company.
2. Midway Gas Company may acquire all the outstanding stock of Hanford Gas and Power Company and said Hanford Gas and Power Company may sell all of its properties, more particularly described in Exhibit No. 12, to Midway Gas Company.
3. Midway Gas Company may acquire all of the outstanding stock of Riverbend Gas and Water Company, and said Riverbend Gas and Water Company may sell all of its properties, more particularly described in Exhibit No. 11, to Midway Gas Company.
4. Valley Natural Gas Company may sell all of its properties, more particularly described in Exhibit No. 13, to Midway Gas Company.
5. Midway Gas Company may purchase and operate the aforementioned properties and execute a trust indenture substantially in the same form as the trust indenture filed in this proceeding on September 30th, provided that the authority herein granted to execute said indenture is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said trust

indenture as to such other legal requirements to which said trust indenture may be subject.

6. Midway Gas Company may sell all of its properties, more particularly described in Exhibit No. 9, together with the properties which it is herein authorized to purchase from Central Counties Gas Company, Hanford Gas and Power Company, Riverbend Gas and Water Company and Valley Natural Gas Company, to Southern California Gas Company, which company is hereby permitted to purchase said properties.

7. Southern California Gas Company may execute a mortgage and/or deed of trust substantially in the same form as the mortgage and/or deed of trust filed in this proceeding on September 30th, provided that the authority herein granted to execute said mortgage and/or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage and/or deed of trust as to such other legal requirements to which said mortgage and/or deed of trust may be subject.

8. Southern California Gas Company may issue and sell, at not less than 94 per cent of their face value and accrued interest, \$8,646,000 of its first mortgage and refunding 5 per cent gold bonds due September 1, 1957, and at not less than its par value, \$5,000,000 of its common capital stock and use said bonds and stock or the proceeds thereof, for the purposes mentioned in the foregoing opinion, provided that no indebtedness other than that authorized by this order may be incurred in connection with the purchase of the properties and the refunding of the indebtedness referred to herein.

9. Southern California Gas Company may, pending the issue of said \$8,646,000 of first mortgage and refunding bonds and the issue of said \$5,000,000 of common stock, issue not exceeding \$6,747,000 of its first refunding mortgage 5½ per cent gold bonds, Series "B," due September 1, 1952, and deliver not exceeding \$3,740,000 thereof at not less than par and accrued interest, in settlement of all or any part of the bank indebtedness of \$3,740,000 above mentioned, provided that it make such arrangements with said banks as will enable it to repurchase at par the bonds so issued upon the issuance by it of said first mortgage and refunding 5 per cent bonds. Upon the reacquisition of the \$3,740,000 of bonds, or such portion as may be issued in payment for bank loans, said bonds, together with the remainder of the \$6,747,000 of bonds, shall be pledged and deposited with the Union Bank and Trust Company of Los Angeles as California trustee under the mortgage and/or deed of trust which Southern California Gas Company is herein authorized to execute.

10. The authority herein granted will become effective when Southern California Gas Company has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is \$4,823.

11. Southern California Gas Company shall keep such record of the issue, sale and delivery of the bonds and stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

12. The consideration which the Midway Gas Company and Southern California Gas Company may pay for the properties which they are herein authorized to purchase shall not be urged before this Commission as the value of such properties for any purpose other than the transfer herein authorized.

13. Within thirty days after their execution Southern California Gas Company shall file with the Railroad Commission two certified copies of the trust indenture which the Midway Gas Company is herein authorized to execute and two certified copies of the mortgage and/or deed of trust which Southern California Gas Company is herein authorized to execute.

14. Within ninety days after the transfer of the properties herein authorized, Midway Gas Company and Southern California Gas Company shall file a certified copy of the deeds and bills of sale under which they acquire the properties referred to herein, and a copy of each and every book entry recording the purchase and payment for said properties, together with a statement showing by accounts the final distribution of the cost of the properties to Southern California Gas Company.

Dated at San Francisco, California, this eleventh day of October, 1927.

DECISION No. 18919.

IN THE MATTER OF THE APPLICATION OF KEY SYSTEM TRANSIT COMPANY, A CORPORATION, FOR PERMISSION TO ABANDON ITS FRANCHISE RIGHTS AND TRACKS OF ITS SAN LORENZO BRANCH STREET CAR SERVICE NOW OPERATING BETWEEN SAN LORENZO JUNCTION AND EAST FOURTEENTH STREET IN THE COUNTY OF ALAMEDA, STATE OF CALIFORNIA.

Application No. 13833.

Decided October 14, 1927.

ABANDONMENT—STREET RAILWAY SERVICE—BRANCH LINE.—Application granted.

Brobeck, Phleger and Harrison, by *H. H. Phleger* and *F. S. Richards*, for Applicant.
Earl Warren, District Attorney, by *F. M. Ogden*, Deputy District Attorney, for County of Alameda, Protestant.

Pillsbury, Madison and Sutro, by *Marshall F. Madison*, for California Packing Corporation, Protestant.

R. S. Houston, Protestant.

Jacob Veohl, Protestant.

Mrs. L. L. Brown, San Lorenzo League of Women Voters, Protestant.

C. P. Lawson, for San Lorenzo Schools, Protestant.

W. D. McDonald, Protestant.

Elsie Smyth, for certain commuters, Protestants.

BY THE COMMISSION.

OPINION.

Key System Transit Company, a corporation, has petitioned the Railroad Commission for an order authorizing the abandonment of portions of franchises permitted the operation of its San Lorenzo branch street car line, discontinuing service on said line, and permitting the removal of its tracks and equipment.

Public hearings on this application were conducted by Examiner Handford at San Lorenzo and San Francisco, the matter was duly submitted and is now ready for decision.

Applicant relies as justification for the granting of the application on the following alleged facts: (1) that the earnings from the operation of the San Lorenzo branch line have averaged approximately \$220 per month, while the total cost of operation has been approximately \$1,035 per month; (2) that the average revenue per car mile has been less than four cents, and the cost per car mile has been in excess of twenty cents; (3) that the revenue received from the operation of the branch line is unreasonably low, when compared with the expense of performing the service; (4) that it is unfair to require the applicant and patrons of its other lines to sustain the deficit arising from this branch line operation, the loss being too great to justify further continuation of the service; and (5) that applicant should not be required to continue the operation of the branch line, such operation not being required by public convenience or necessity.

The branch line, herein proposed to be abandoned, extends from a junction with the Hayward line of applicant at East Fourteenth street and Telegraph road, southeasterly over and along Telegraph road to the end of track in San Lorenzo, a distance of 1.49 miles, and was constructed under authority as contained in the following ordinances of the county of Alameda:

Ordinance No. 27, dated October 20, 1890.

Ordinance No. 47, dated February 20, 1893.

Ordinance No. 137, dated June 29, 1914.

Service over the branch line is given by means of a one-man car operating on a twenty-minute headway between the hours of 5.28 a.m. and 12.05 a.m. week days, and between the hours of 7.15 a.m and 12.05 a.m. on Sundays. Direct connection is made at San Lorenzo Junction with the main line cars operating between Oakland and Hayward.

The testimony of officials of applicant and exhibits filed at the hearings show the following data regarding results from operation:

Analysis of Passenger Traffic.

<i>Period</i>	<i>Passengers carried</i>	<i>Receipts</i>	<i>Car miles</i>	<i>Receipts per car mile</i>
Year, 1920-----	95,336	\$2,742 70	66,224	4.1 cents
Year, 1921-----	89,310	2,668 72	65,932	4.0 cents
Year, 1922-----	98,419	2,925 43	65,428	4.5 cents
Year, 1923-----	97,117	2,876 19	65,935	4.4 cents
Year, 1924-----	91,535	2,697 04	65,033	4.1 cents
Year, 1925-----	86,970	2,559 32	64,323	3.9 cents
Year, 1926-----	80,979	2,656 46	62,146	4.3 cents
Year, 1927, January to June, inclusive-----	30,397	1,157 30	28,762	4.0 cents

The expense of operation for the year 1926, including only the items of platform wages, power and taxes, amounted to \$6,713.80 as against a total revenue of \$2,656.46, a deficit of \$4,057.34. The total operating expenses, including maintenance of way and structures, maintenance of equipment, depreciation, transportation, traffic and general expense, amounted to \$13,171.42, resulting in a deficit of \$10,514.96. No allowance for any return on the investment has been included in the foregoing compilation.

The record shows the track and roadbed to be in bad condition and requiring a considerable expenditure for rehabilitation.

From estimates prepared by applicant the following expenditures would be necessary if either of the three following methods of rehabilitation were undertaken:

1. Rehabilitation using 70-lb. relayer tee rail, ties, tie plates and joints with some additional ballast, \$15,666.
2. Reconstruct with 122-lb. standard construction concrete and asphalt paving, in present location, \$96,231.75.
3. Reconstruct with 122-lb. standard construction in center of highway, concrete-asphalt paving, reconstruct overhead from bracket arm to span construction, \$118,812.05.

The granting of the application is protested by the county of Alameda, California Packing Corporation, San Lorenzo League of Women Voters, and certain residents of San Lorenzo.

The evidence of protestants was directed to the need for the continuance of the service and the difficulty anticipated if the service were to be suspended; and to the absence of public transportation for school children, some 40 in number, especially during the rainy season. While the stage line of the Peerless Stages, Inc., operates through San Lorenzo on a two-hour headway southbound between the hours of 7.40 a.m. and 5.40 p.m. and northbound between the hours of 8.20 a.m. and 6.20 p.m. and the trains of the Southern Pacific Company serve San Lorenzo by five schedules eastbound and three schedules westbound, such stage

and train service do not appear to fully satisfy the desires of the residents either as to rates or frequency of service. Protestant, California Packing Corporation, offered no evidence in support of its protest although an adjourned hearing was held at San Francisco for such purpose.

After careful consideration of the evidence and exhibits in this proceeding we conclude that the continued maintenance and operation of the San Lorenzo branch of applicant's street railway system is not justified by the traffic offered and there is no evidence indicating any prospect of increased future traffic in volume sufficient to warrant the expenditure of the amount estimated necessary to rehabilitate the track and roadbed to an extent necessary if safe operation is to be assured. The record shows the branch line to have been operated for many years at a substantial deficit; that the revenues from operation have not met the actual out-of-pocket expenditures for platform labor and power, there being no return for maintenance of track and roadbed, maintenance of equipment, depreciation, transportation expenses (other than power and wages) traffic, miscellaneous and general expense, or any interest return on the investment. The line is in immediate need of rehabilitation, requiring a considerable financial expenditure not justified by the record herein, and its continued maintenance and operation under existing conditions would impose an unfair and unwarranted burden on other users of applicant's system who would be required to meet the deficit occasioned by the continued operation of the San Lorenzo branch line. We, therefore, find as a fact that the public convenience and necessity do not require the continued maintenance and operation of said branch line, and that the application should be granted.

The transportation of school children who will be deprived of the use of applicant's line will doubtless be cared for by the school district as is customary when public transportation facilities are not available.

ORDER.

Public hearings having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusions and findings of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that applicant Key System Transit Company, a corporation, be and the same hereby is authorized to discontinue the maintenance and operation of its San Lorenzo branch street car line, between the junction of said branch line with the Oakland-Hayward line and the end of the track in San Lorenzo, and to abandon and remove its tracks and overhead line.

The discontinuance of service herein authorized shall not become effective until applicant will have given ten days notice to the traveling public by publishing notice of the date of discontinuance in a newspaper of general circulation in the town of San Lorenzo, and by posting notice of the date of discontinuance in all cars operated on the San Lorenzo branch line, on the Oakland-Hayward line, and at the post-office at San Lorenzo.

Applicant is hereby further required to cancel all tariffs and time schedules now filed with this Commission covering fares and schedules now applicable to the San Lorenzo branch line, such cancellations to be made in accordance with the provisions of this Commission's Tariff Circular No. 2, and other regulations of this Commission.

For all purposes, other than hereinabove stated, the effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this fourteenth day of October, 1927.

DECISION No. 18931.

IN THE MATTER OF THE APPLICATION OF THE PLYMOUTH WATER COMPANY, A CORPORATION, FOR PERMISSION TO ADJUST THE METER RATES.

Application No. 13909.

Decided October 17, 1927.

RATES—WATER UTILITY—To ADJUST.—Application for increase granted in part only.

M. C. Randolph, for Applicant.

Wm. G. Snyder, for City of Plymouth and Consumers.

G. Ross et al, for Board of Trustees, Plymouth.

J. Vanderpool, for Citizen's Committee.

BY THE COMMISSION.

OPINION.

By this application, Plymouth Water Company, a corporation, supplying water for domestic purposes to residents of Plymouth, Amador County, asks for an adjustment of its rates for such service. The applicant alleges in effect that the existing meter rates are noncompensatory in that they do not meet the reasonable maintenance and operating expenses and fail to yield an adequate return on the investment.

A public hearing in this matter was held before Examiner Vaughan at Plymouth after all interested parties had been notified and given an opportunity to appear and be heard, and the matter was duly submitted and is now ready for decision.

The existing rates were fixed in Application No. 13029, Decision No. 17768, December 17, 1926, to which reference is hereby made for a history and description of this system.

These rates are as follows:

Meter Rates.

Minimum Monthly Charges:

$\frac{1}{8}$ -inch meter.....	\$2 00
$\frac{1}{4}$ -inch meter.....	2 25
1-inch meter.....	3 00
1 $\frac{1}{2}$ -inch meter.....	5 00
2-inch meter.....	7 50

Each of the foregoing "minimum monthly charges" will entitle the consumer to the quantity of water which that minimum charge will purchase at the following monthly quantity rates:

Monthly Quantity Rates:

600 cubic feet, or less.....	\$2 00
600 to 1500 cubic feet, per 100 cubic feet.....	25
1500 to 2500 cubic feet, per 100 cubic feet.....	20
2500 to 5000 cubic feet, per 100 cubic feet.....	15
Over 5000 cubic feet, per 100 cubic feet.....	13
Fire hydrants on mains 4 inches in diameter or larger, per month.....	1 75
Fire hydrants on mains less than 4 inches in diameter, per month.....	1 25
All water for street and road sprinkling purposes, per 100 cubic feet.....	15

At the hearing, a report was presented by R. E. Savage, one of the Commission's engineers, in which the estimated original cost of the system, as of August 31, 1927, is shown to be \$26,818, with a corresponding depreciation annuity of \$564, computed by the 5 per cent sinking fund method. This appraisal is based upon the value of the property amounting to \$25,966, as of July 31, 1926, established by the Commission for rate base used in its Decision No. 17768, above referred to, to which net additions and betterments are added. This sum was satisfactory to all interested parties and is accepted as the reasonable rate base for this proceeding.

The above report, together with that submitted in the prior proceeding by the Commission's engineer, contains analyses of the company's revenues and maintenance and operation expenses. These figures are given in the following tabulation, together with the resulting return on the corresponding rate base:

	<i>Maintenance and operation expense, includ- ing depreciation</i>	<i>Available for return</i>	<i>Rate base</i>	<i>Return on investment</i>	<i>Total revenue</i>
Year, 1925----	\$2,785	\$551	\$25,966	2.12%	\$3,336
Year, 1926----	3,001	158	25,966	0.61%	3,150

The annual operating expenses allowed by this Commission in establishing the rates now in effect were \$2,600 and, as the evidence indicates that this amount is almost identical with the actual expenditures, the same allowance is considered fair and reasonable for the purposes of the present proceeding. The existing rate schedule went into effect on January 1, 1927, and a study of the resulting revenue shows that the sum of \$2,218, was received from the period January to August, 1927,

inclusive. It is reasonable to assume, therefore, that approximately \$3,300 will result from the operation during 1927, which amount will leave little, if anything, by way of net return upon the investment for 1927.

Under normal conditions, the application of a metered schedule on a system where consumers have been long accustomed to flat rates results in a temporary drop in water use and revenue. Although the existing rate schedule has not been in effect for a sufficient length of time to definitely determine its ultimate yield, yet the investigation of the affairs of the Plymouth Water Company and the studies of local conditions made by the Commission's engineering staff for the several years last past conclusively show that the principal reason for the continued falling off of revenue is caused by the gradual decline in population with the accompanying loss of consumers. Applicant, however, introduced some testimony based upon the expense of operation and submitted figures showing the proportion of consumers who consume less water than the present minimum 600 cubic feet, to which is attributed the present difficulty.

Although the rates established by the Commission were reasonable under the conditions then obtaining, a careful review of all the testimony shows a steady decline in the number of consumers served, together with a corresponding decrease in revenue. The present rates have been adjusted to some extent and will, it is believed, result in producing slightly increased revenues and at the same time will not place an undue burden on the consumers. If, however, the number of consumers continues to decrease, higher charges can not reasonably be expected, for the rates of this utility as established herein are not far below the point where further increase will result in a rate greater than the service is reasonably worth. The rates established in the following order should provide revenues sufficient to pay operating costs, including depreciation, and a small return upon the investment. However, as pointed out by this Commission, this system was originally designed to serve a far greater population than actually now supplied with water and is, therefore, to that extent overbuilt. Under such conditions, a full return can not reasonably be expected.

Considerable benefit accrues to the community from the ample fire protection provided by the facilities of this utility. It is reasonable, therefore, that a portion of the increased revenues should be provided by the municipality for this service.

ORDER.

Plymouth Water Company, a corporation, having made application to the Railroad Commission as above numbered and entitled, a public

hearing having been held thereon, and the matter having been duly submitted and being now ready for decision:

It is hereby found as a fact that the rates now charged by Plymouth Water Company, a corporation, are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates to be charged for the service rendered.

Basing its order on the foregoing findings of fact and on the further statements of fact contained in the opinion which precedes this order;

It is hereby ordered, that Plymouth Water Company, a corporation, be and it is hereby authorized and directed to file with this Commission, within twenty days from the date of this order, the following schedule of rates to be charged for all service rendered to consumers on and after October 31, 1927:

Meter Rates.

Minimum Monthly Charges:

$\frac{3}{4}$ -inch meter-----	\$2 25
$\frac{1}{2}$ -inch meter-----	2 50
1-inch meter-----	3 00
1 $\frac{1}{2}$ -inch meter-----	5 00
2-inch meter-----	7 50

Each of the foregoing "Minimum Monthly Charges" will entitle the consumer to the quantity of water which that minimum charge will purchase at the following monthly quantity rates:

Monthly Quantity Rates:

400 cubic feet, or less-----	\$2 25
Next 1600 cubic feet, per 100 cubic feet-----	25
Over 2000 cubic feet, per 100 cubic feet-----	15
Fire hydrants on mains 4 inches in diameter or larger, per month-----	2 50
Fire hydrants on mains less than 4 inches in diameter, per month-----	2 00
All water for street and road sprinkling purposes, per 100 cubic feet-----	15

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this seventeenth day of October, 1927.

DECISION No. 18933.

L. H. ALBERTSON ET AL.

vs.

PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION.

Case No. 2352.

Decided October 18, 1927.

~~RATES—GAS UTILITY—WHOLESALE.~~—Finding the assailed rate not excessive, the complaint is dismissed.

L. H. Albertson, for the Complainants.

O. P. Outten and R. W. Du Val, by *R. W. Du Val*, for Defendant.

BY THE COMMISSION.

OPINION.

The complaint in this matter reads as follows:

"The undersigned resident citizens, voters, taxpayers and consumers of gas in the town of Santa Clara, California, complain of the Pacific Gas and Electric Company of San Francisco, California, a utility corporation supplying the town of Santa Clara with gas for resale distribution within two years last past, and alleges

That, on or about September 1, 1924, said utility corporation commenced the service of supplying the town of Santa Clara with gas for resale distribution, and that at said date the public announcement was made that said service was to be of a short duration, during such a time while the municipal plant was undergoing repairs; that less than two years has elapsed since the citizens became aware that the town trustees intended to make this arrangement permanent.

That during said period and for more than two years the said utility corporation engaged in the business of selling gas to the town of Santa Clara without a permit from the Railroad Commission of the State of California as by law provided;

That, during said period said corporation charged the town of Santa Clara an exorbitant rate for the sale of said gas, wholesale, to wit, at the rate of about 74 cents per 1000 cubic feet over the meter. We therefore complain of the said utility corporation and ask that a hearing be had to establish what would be a reasonable price for the sale of said gas to the town of Santa Clara."

This complaint is signed by L. H. Albertson and some sixty others.

A public hearing was held before Examiner Gannon at Santa Clara on September 1, 1927, evidence being introduced, the matter being duly submitted and being now ready for decision.

It appears from the record that complainants' position is somewhat changed from that indicated on the face of their complaint in that they now ask the Commission to institute a proceeding upon its own motion.

Defendant, during the course of the hearing, moved for a dismissal of the complaint on the ground that the Commission was without jurisdiction. While defendant's motion is perhaps not entirely without merit, the Commission feels that complainants were entitled to place such evidence as they had before the Commission. There appears to be no necessity for ruling upon defendant's motion to dismiss.

It appears that the city of Santa Clara has recently sold its municipal gas distribution system to defendant, that for substantially two years prior to such sale defendant supplied this distribution system with gas from its San Jose plant under a special wholesale rate, that prior to

the institution of such wholesale deliveries by defendant the system above referred to was supplied by its own gas generating plant.

Complainants allege that said defendant has, in the past, engaged in the business of selling gas to the town of Santa Clara without first having secured permission from this Commission so to do. Decision No. 14094 on Application No. 10389 and the record in that matter have been considered as a part of the record in this case. The decision and record above referred to clearly indicate that wholesale gas service to the Santa Clara distribution system was contemplated and, therefore, covered by the certificate of public convenience and necessity granted by this Commission for the building of a gas transmission line through Santa Clara.

Complainants further allege that the special wholesale gas rate above referred to was exorbitant and that substantial reparations should be made to the city of Santa Clara.

The evidence indicates that the special rate in question was substantially lower than filed schedules for retail and wholesale deliveries of gas in the neighboring vicinities and substantially higher than the rate established by the Railroad Commission for resale service to the city of Palo Alto.

The municipal distribution system of the city of Palo Alto requires, and in the past has required, much larger quantities of gas than does the Santa Clara system, and service to Palo Alto is from defendant's San Francisco plant. It is therefore apparent that the Palo Alto rate can not of itself be used as a criterion for Santa Clara conditions.

The Commission feels that the showing made is insufficient to justify a refund to the City of Santa Clara for the period in question, and that a proceeding instituted upon the Commission's own motion would be barren of results.

ORDER.

Complaint as above named and numbered having been filed with this Commission, a public hearing having been held thereon, the matter having been duly submitted and being now ready for decision, and the Commission being fully advised and good cause appearing; therefore

It is hereby ordered, that the above complaint be and the same is hereby dismissed.

Dated at San Francisco, California, this eighteenth day of October, 1927.

DECISION No. 18934.

IN THE MATTER OF THE APPLICATION OF NORTHWESTERN PACIFIC RAILROAD COMPANY, ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND SOUTHERN PACIFIC COMPANY FOR AN ORDER AUTHORIZING THE CANCELLATION OF CERTAIN RATES ON CEMENT.

Application No. 13730.

Decided October 19, 1927.

RATES—STEAM RAILROAD—CEMENT.—Application to cancel certain local and joint commodity rates on cement from San Francisco, Oakland, Richmond, and points between, to points on Northwestern Pacific Railroad, granted.

Fells and Orick, by *R. L. Hall*, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by the Northwestern Pacific Railroad Company, Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company under section 63 of the Public Utilities Act for permission to cancel certain local and joint commodity rates on cement from San Francisco, Oakland, Richmond and points between to San Rafael, Petaluma, Penn Grove, Cotati, Bellevue, Santa Rosa, Fulton, Guerneville, Rio Campo, Duncan Mills, Cazadero, Healdsburg, Cloverdale, Hopland, Ukiah, Basil, Willits, Northwestern, Rowes and Sherwood, all being points on the Northwestern Pacific Railroad, as shown in Items 540 to 570, inclusive, of Northwestern Pacific Tariff 38-F, C. R. C. 308, and Items 7904 and 7906 of Pacific Freight Tariff Bureau Tariff 88-K, C. R. C. 390. The rates shown in the former tariff apply from San Francisco only; rates shown in the latter tariff apply from all points of origin quoted above.

The applicable rates after cancellation of the commodity rates will be the Class C rates unless the combination rates make lower.

A public hearing was held October 6, 1927, at San Francisco before Examiner Geary and the application having been duly submitted is now ready for our opinion and order.

The application sets forth that there are no cement mills at San Francisco or the other points taking the San Francisco rates, consequently there is no necessity for their publication, and that the same are a burden in the tariffs.

The testimony shows that there has been no movement of cement from San Francisco or the San Francisco Bay points for a number of years past. The cement used in Northern California is practically all moved from the cement mills located at Cement, Cowell, Davenport, North Branch, Redwood City, San Juan and Merced, and from these milling points there is a complete publication of rates on cement in carload lots to the destination points located on the Northwestern Pacific Railroad.

The files of the Commission contain letters from all of the manufacturing cement mills in Northern California, the San Francisco Chamber of Commerce, Oakland Chamber of Commerce and the Encinal Terminals, signifying their position in the matter and advising that

there were no objections to the cancellation of the cement rates involved in this proceeding.

Upon consideration of all the facts of record we are of the opinion and find that the commodity rate sought to be canceled by this application are no longer necessary, are a burden in the tariffs, and we conclude that the application should be granted.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which is hereby referred to and made a part hereof;

It is hereby ordered, that the application filed by the Northwestern Pacific Railroad Company, Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company be and the same is hereby granted, and the applicants are hereby authorized to cancel the commodity rates applying on cement from San Francisco and the San Francisco Bay points to the points located on the Northwestern Pacific Railroad, as set forth in the application and as published in Northwestern Pacific Tariff 38-F, C. R. C. 308, in Items Nos. 540 to 570, inclusive, and in Pacific Freight Tariff Bureau Tariff 88-K, C. R. C. 390, in Items 7904 and 7906.

Dated at San Francisco, California, this nineteenth day of October, 1927.

DECISION No. 18936.

IN THE MATTER OF THE APPLICATION OF THE REEDLEY TELEPHONE COMPANY, FOR PERMISSION TO DISPOSE OF 122 (\$12,200) OF ITS TWENTY-YEAR FIRST MORTGAGE 7 PER CENT BONDS HERETOFORE AUTHORIZED TO BE ISSUED, AND FOR AUTHORITY TO PURCHASE A BUILDING, PARTIALLY PAYING FOR SAME FROM THE PROCEEDS OF THESE BONDS, AND TO GIVE ITS NOTES IN PART PAYMENT FOR THE BALANCE.

Application No. 14083.

Decided October 19, 1927.

SECURITIES—BONDS—NOTES—To ISSUE.—Application granted.

A. Terkel, for Applicant.

BY THE COMMISSION.

OPINION.

Reedley Telephone Company asks permission to issue \$12,200 face value of its 7 per cent first mortgage bonds and \$4,360 of 7 per cent notes for the purpose of reimbursing its treasury and acquiring properties.

The Reedley Telephone Company has an authorized bond issue of \$50,000. By Decision No. 9255, dated July 23, 1921, as amended, the company was permitted to issue on or before June 30, 1923, \$20,000 of said bonds and sell the same at not less than 90 per cent of their face value and accrued interest. It is of record that the company has been able to sell only \$7,800 of the bonds, leaving \$12,200 of bonds unsold. Recently it has received an offer of 95 and accrued interest for \$1,000 of its bonds. It believes that it may be able to sell the remaining \$11,200 of bonds at the same price.

Applicant asks permission to use the proceeds from the sale of \$1,000 of its bonds to reimburse its treasury because of income expended for additions and betterments during 1926 and up to July 31, 1927. The cost of such additions and betterments is reported at \$1,463.23.

The company also intends to acquire at a cost of \$15,000 the lot and building in which its central office equipment is now located. The lot is 25x100 with an alley in the rear. There has been erected on the lot a two-story brick and concrete building. For the space it occupies, it pays \$90 a month rent. Applicant occupies the main floor of the building, size 25x50, the basement under the entire building and the warehouse in the rear of the building. The second floor is rented at \$480 per annum. Assuming that the company can sell its bonds at 95, it will realize from the sale thereof \$10,640 available to pay in part the purchase price of the building. To cover the balance of the purchase price, the company asks permission to issue a \$4,360 7 per cent note.

ORDER.

Reedley Telephone Company having asked permission to issue \$12,200 of its 7 per cent first mortgage bonds, due December 1, 1941, and a \$4,360 note, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue of bonds and notes, is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that this application should be granted, as herein provided; therefore,

It is hereby ordered, as follows:

1. Reedley Telephone Company may issue and sell on or before December 31, 1928, at not less than 95 per cent of their face value and accrued interest, \$12,200 of its 7 per cent first mortgage bonds due December 1, 1941, and use the proceeds obtained from the sale of \$1,000 of said bonds to reimburse its treasury on account of earnings expended for the properties referred to in its petition. The remainder of the proceeds or the \$11,200 of bonds shall be used by the company to pay in part the cost of the building referred to in this application.

2. Reedley Telephone Company may issue and sell at not less than par \$4,360 face value of 7 per cent unsecured notes payable on or before ten years after date, and use said notes or proceeds to pay the cost of the building referred to in this application.

3. Reedley Telephone Company may use said bonds and notes to pay for said building, provided said building is purchased free and clear of all indebtedness and at a cost of not exceeding \$15,000.

4. The authority herein granted becomes effective when applicant has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.

5. Reedley Telephone Company shall keep such record of the issue, sale and delivery of the stock and notes herein authorized, and of the disposition of the proceeds as will enable it to file on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this nineteenth day of October, 1927.

DECISION No. 18938.

ARTHUR M. LOEB, DOING BUSINESS AS ALLIED CONSTRUCTION COMPANY,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY.

Case No. 2348.

Decided October 19, 1927.

RATES—ELECTRIC RAILROAD—DEMURRAGE.—Complaint dismissed.

Arthur M. Loeb, for Complainant.

Forrest A. Betts, for Defendant.

BY THE COMMISSION.

OPINION.

Complainant Arthur M. Loeb, an individual doing business under the fictitious name of the Allied Construction Company, is a contractor with offices in the Wilcox building, Los Angeles. By complaint filed April 8, 1927, and amended May 18, 1927, he alleges that certain demurrage charges assessed by defendant for the detention in March and April, 1925, of numerous carloads of cement, rock and sand consigned for delivery on defendant's siding at Abila, were unlawful, unjust and unreasonable and in violation of the provisions of the Public Utilities Act.

Complainant seeks an award of reparation approximating \$94 and the cancellation of bills rendered for charges assessed but not paid.

Certain allegations are also made having reference to damages to a passenger car of defendant struck by the unloading crane of the complainant and for expenses incurred because of delays in placing cars, etc., but since we have no jurisdiction over these difficulties they will not be further discussed.

A public hearing was held September 6, 1927, before Examiner Geary at Los Angeles, and the matter having been duly submitted is now ready for our opinion and order.

Complainant avers he made a verbal agreement with an agent of the Pacific Electric Railway for the delivery of carloads of cement, rock and gravel on the passing tracks at Abila switch, and that this switch was to be at his disposal until certain street work was completed. Approximately 75 carloads of the material referred to were unloaded, and demurrage totalling \$210 was originally assessed on 32 cars. Of this amount \$32 was cancelled, \$70 actually paid, leaving \$108 in dispute. Defendant filed a suit in the municipal court, city of Los Angeles, for the sum of \$108, and the court entered a judgment against the complainant in the sum of \$67, together with the costs in the sum of \$48.45.

Complainant contends the demurrage charges accrued because cars were not spotted at the most convenient points for unloading and that there was a ditch alongside the tracks, making it difficult and sometimes impossible to reach the cars. The record, however, shows the cancellation of \$20 because of the placing of certain cars opposite this ditch.

Defendant introduced the testimony of its agents, car checkers, conductors, trainmasters and section foremen, and also furnished exhibits describing in detail the manner in which the cars were dealt with. The traveling auditor of the Pacific Car Demurrage Bureau, the organization having jurisdiction over contested demurrage charges, presented an exhibit giving a complete record of the movement of each and every car. The testimony showed that Abila switch was a passenger passing track for interurban trains and not a regular unloading track, and that special permission was given for the use of the track to this complainant in order to facilitate a street improvement contract; that the cars were at first unloaded with a crane and clam-shell bucket, which proved dangerous to the operation of passenger trains, and after some material had been delivered it was found necessary to discontinue the use of the crane because it had collided with a passenger coach, destroying a part of the roof of the car and endangering passengers. The testimony further showed that complainant had failed to completely unload a number of cars, leaving tools, cement sacks, etc., in the equipment, thus preventing their removal. Also, at times, the rock and sand was permitted to cover the tracks, making it impossible for the switching crews to remove the cars.

Defendant introduced an exhibit showing a track check record made by the Compton Station daily for 29 days, excluding Sundays and holidays, from March 12, 1925, when the first of the cars arrived, to April 14, 1925, when the last car was released. Attention is called to the fact that the track check was made every day at 7 a.m. and that when cars were unloaded later during the day they would be shown as empties the following morning. The charges are governed by Pacific Car Demurrage Bureau Tariff 1-O, C. R. C. 14. Rule 2 of the tariff provides that 48 hours' free time will be allowed for loading or unloading of carload freight, and Section D of Rule 3 reads:

On cars to be delivered on other-than-public delivery tracks, time will be computed from the first 7 a.m. after actual or constructive placement on such tracks. Time computed from actual placement on cars placed at exactly 7 a.m. will begin at the same 7 a.m.; actual placement to be determined by the precise time the engine cuts loose.

Note 1 reads:

"Actual Placement" is made when a car is placed in an accessible position for loading or unloading or at a point previously designated by the consignor or consignee.

And Note 2 reads:

Any railroad track or portion thereof assigned for individual use will be treated as "other-than-public-delivery track."

Complainant's testimony is in no manner conclusive, is not substantiated by any written records, and presents no proof as to time or circumstances when defendant failed to perform the proper services.

After giving a consideration to all of the evidence and the exhibits, we are of the opinion and find that the demurrage charges assailed have not been shown to be unreasonable, in violation of the tariff, or unlawful. There being no supporting proof of the allegations, the complaint must be dismissed.

ORDER.

This case having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that the complaint in the above entitled proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this nineteenth day of October, 1927.

DECISION No. 18939.

HERCULES GASOLINE COMPANY, A CORPORATION,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION.

Case No. 2409.

Decided October 19, 1927.

RATES—ELECTRIC RAILROAD—PETROLEUM CRUDE OIL—REPARATION.—Rate charged between Naples and Los Angeles found unreasonable in that it exceeded rate subsequently established. Reparation awarded.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the State of California, with its principal place of business at Los Angeles, is engaged in producing, refining and marketing petroleum oils and petroleum products. By complaint filed September 10, 1927, it alleges that the rate charged on numerous carloads of petroleum crude oil shipped from Naples to Los Angeles during the period from April 1 to May 21, 1927, was unjust and unreasonable and in violation of section 13 of the Public Utilities Act of the State of California to the extent it exceeded 3½ cents.

Reparation only sought. Rates are stated in cents per 100 pounds.

Charges were assessed and collected at the lawfully applicable rate of 5 cents, shown in Pacific Electric Railway Company's Tariff 120-C, C. R. C. 289. Effective May 21, 1927, defendant voluntarily established a rate of 3½ cents on crude and fuel oil from Naples to Los Angeles. Complainant bases its plea for reparation upon the lower rate subsequently established.

The rate assailed yields ton-mile earnings of 4.55 cents for a haul of 22 miles. Complainant instances contemporaneous rate of 3 cents on the same commodity from El Segundo, Signal Hill, East Long Beach and Norwalk to Los Angeles and yielding ton-mile earnings of 3.157 cents to 3.529 cents for distances of 17 to 19 miles. The rate upon which reparation is sought yields ton-mile earnings of 3.181 cents.

The ton-mile earnings under the subsequently established rate of 3½ cents compare favorably with earnings received on crude oil from other producing points in Southern California to Los Angeles.

Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate of 5 cents charged was unjust and unreasonable to the extent it exceeded the subsequently established rate of 3½ cents. We further find that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation

the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Pacific Electric Railway Company, be and it is hereby authorized and directed to refund to complainant, Hercules Gasoline Company of Los Angeles, California, all charges it may have collected in excess of 3½ cents per 100 pounds on the shipments involved in this proceeding and forwarded from Naples to Los Angeles during the period from April 1 to May 21, 1927.

Dated at San Francisco, California, this nineteenth day of October, 1927.

DECISION No. 18943.

IN THE MATTER OF THE APPLICATION OF MONTECITO VALLEY WATER COMPANY, A CORPORATION, FOR PERMISSION TO DISCONTINUE SERVICE OF WATER.

Application No. 13777.

Decided October 25, 1927.

SERVICE—ABANDONMENT.—Montecito Valley Water Company authorized to abandon service in Montecito Valley, Santa Barbara County.

SERVICE—ABANDONMENT—REASONS FOR—IN GENERAL.—Authorization to abandon water service was granted where, due to the existence of a water district ready and willing to supply all consumers, the utility could not operate save at an ever increasing financial loss.

Harry W. F. Ross, for Applicant.
Dr. M. M. Yates, *in propria persona*.

By THE COMMISSION.

OPINION.

In this proceeding, as above entitled, Montecito Valley Water Company, a corporation, which owns and operates a public utility supplying water for domestic purposes to certain consumers residing in the westerly portion of the Montecito Valley, Santa Barbara County, asks permission to discontinue its public utility service.

A public hearing in this matter was held at Santa Barbara before Examiner Williams after all interested parties had been duly notified and given an opportunity to be present and be heard.

The Montecito Valley Water Company was incorporated as a public utility in 1886, primarily for the purpose of providing the necessary

water supply for certain lands in the Montecito Valley adjacent to the city of Santa Barbara, which were then being subdivided and marketed by Montecito Land Company, a corporation.

The utility's source of supply consists of the right to divert fifteen miner's inches of the flow of Cold Springs branch of Montecito Creek and also the right to about eight miner's inches of the flow from three tunnels in said creek, which rights were awarded the company on October 16, 1905, by final judgment of the supreme court of this state, following almost continuous litigation begun in 1888. During the summer months, the natural flow of the creek practically ceases and therefore in the dry season only the eight miner's inches from the tunnel source of supply is available for distribution to the consumers. The water supply is delivered by gravity from the intake box in the creek to a storage and regulating reservoir of 125,000 gallons capacity and thence to the consumers through iron pipes, largely 6 inches, 4 inches and 2 inches in diameter. At present there are about 58 consumers, of which 28 are metered. The record indicates that the total capital investment of this utility in its present operative properties is approximately \$26,000.

About 1924 the Montecito Valley Water District, a municipal corporation, was formed under the legislative act of 1911, and embraces within its boundaries practically the entire Montecito Valley, including all of the area served by applicant's water system. This district has installed its distributing pipe mains throughout the territory and in applicant's service area has laid its mains generally paralleling the utility's distribution system. Furthermore, the district has been supplying water to its consumers for over two years. The evidence shows that, since the district began operating, nineteen of applicant's consumers have wholly discontinued utility service and now receive water from the district system and, in addition thereto, fourteen of applicant's remaining consumers are also connected to the district system, using applicant's service largely for domestic use and that of the district for the irrigation of their grounds. The result has been a material reduction in the utility's total annual revenues from water sales.

R. P. Westaway, superintendent of construction of the Montecito Valley Water District, testified that the district has available an adequate water supply which is tested regularly and found to be of good potable quality; that its pipe mains as installed were designed and are adequate to take care of the needs of the whole district, and that the district is able and willing to supply all of the utility's remaining consumers and can serve without delay any and all such consumers who apply. The district levies a charge of \$24 for each $\frac{3}{4}$ -inch metered service installed and a proportionate increase for larger sized services. The monthly rates charged its consumers for water delivered are based

upon a sliding scale starting at 25 cents per 100 cubic feet for the first 1000 cubic feet per month. An annual tax to cover certain fixed operating charges also is levied uniformly against all the lands within the district, which includes lands owned by utility consumers whether or not such consumers use water from the district system.

A number of consumers entered protests against the discontinuance of this utility service on the grounds, mainly, that the expense to them of making the service connection with the district's system would be burdensome and that the better quality of the utility's water makes it more desirable for drinking and other domestic purposes.

The record of the operations of this utility shows that its revenues obtained from water sales have largely decreased during the past two years, due to the loss of consumers to the district, and that for the year 1926 the total revenues were barely sufficient to meet the maintenance and operation expenses of the system without providing for any return on the investment in the plant. Ordinarily, relief for such a financial condition could be obtained by increasing the rates charged for service; however, in this case, it is doubtful if an increase in rates would be more than of temporary assistance and would undoubtedly result in a further loss of consumers to the district. Under existing circumstances, it is also apparent that the presence of the district water system will make it practically impossible for the utility to increase the scope of its operations.

A consideration of the evidence presented in this matter indicates that the people in the Montecito Valley have formed their own water district for the purpose of supplying water for domestic and other purposes to their lands and have installed and have now in operation water distributing facilities adequate to supply all demands within its boundaries, and that the district is now ready and willing to supply all of applicant's consumers upon demand. In view of the fact that the operations of the district have resulted in making the future conduct of this utility impracticable, except at an ever increasing financial loss, it appears to be unnecessary and unreasonable to require applicant to continue further utility water business. The application, therefore, will be granted.

ORDER.

Montecito Valley Water Company, a corporation, having applied to this Commission for permission to discontinue service of water to its consumers and to be relieved of its public utility obligations, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed in the premises;

It is hereby ordered, that Montecito Valley Water Company, a corporation, be and it is hereby authorized to discontinue, on or after the first day of February, 1928, the service of water to all of its consumers

in Montecito Valley, Santa Barbara County, and thereafter he relieved of all public utility obligations and liabilities in connection therewith, subject to the following terms and conditions:

1. Within ten days of the date of this order, said Montecito Valley Water Company shall notify, in writing, each of its consumers of its intention to discontinue service of water to them on or after February 1, 1928.

2. Within thirty days from the date of this order, said Montecito Valley Water Company shall file with this Commission an affidavit setting forth that all of its consumers have been duly notified as herein provided.

3. On or before the first day of March, 1928, Montecito Valley Water Company shall file with this Commission a complete financial statement covering its operations for the year ending December 31, 1927.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18944.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION OF THE REASONABLENESS OF THE RATES, CHARGES, PRACTICES, CONTRACTS, RULES REGULATIONS, SCHEDULES AND CONDITIONS OF SERVICE, OR ANY OF THEM, OF THE MARIN LUMBER AND SUPPLY COMPANY, A CORPORATION, OPERATING A WATER SYSTEM SUPPLYING CONSUMERS IN AND IN THE VICINITY OF DUNCAN MILLS, SONOMA COUNTY, CALIFORNIA.

Case No. 2386.

Decided October 25, 1927.

SERVICE—RESUMPTION OF ABANDONED SERVICE.—Marin Lumber and Supply Company ordered to resume water service to consumers in the vicinity of Duncan's Mills, Sonoma County; to file schedules of rates and rules and regulations; and to file plans for the improvement of its water system.

PUBLIC UTILITIES—WHAT CONSTITUTE—ACTS RENDERING PRIVATE COMPANIES PUBLIC UTILITIES.—Although a water system was originally installed for the purpose of supplying water to a sawmill, where, for a period of forty years, the waters have been dedicated to public use and water has been sold for compensation to all applicants within the service area of the system, such system is a public utility.

CONSOLIDATION MERGER AND SALE—JURISDICTION, POWERS AND DUTIES OF COMMISSION—NECESSITY OF COMMISSION AUTHORIZATION.—Purported transfers of property devoted to public service are void when not authorized by the Commission.

SERVICE—DUTY OF UTILITY TO RENDER SERVICE—IN GENERAL SERVICE—JURISDICTION, POWERS AND DUTIES OF COMMISSION—ABANDONMENT—NECESSITY OF SECURING APPROVAL.—Purported transfers of property devoted to public use being void when not authorized by the Commission, a company which, by means of a foreclosure sale, now owns and possesses a public utility water system,

must continue to render service unless and until authorized to discontinue by the Commission.

PUBLIC UTILITIES—CHANGE OF STATUS.—Although rates of a water system were not filed with the Commission until 1921, the public utility obligations and liabilities had impressed and attached themselves to such system from the beginning of the dedication of the waters thereof to public use, and since the establishment of the Commission could not have been terminated without its authority.

PUBLIC UTILITIES.—Change of status.

PUBLIC UTILITIES—WHAT CONSTITUTE—TESTS OF STATUS—RECEIVING COMPENSATION.—The refusal of a public utility to accept payment for service after rendering service for compensation for a period of forty years will not change its status to that of a private company nor relieve it of its public utility obligations and liabilities.

LOUTTIT, Commissioner.

OPINION.

This is an investigation on the Commission's own motion to inquire into the reasons for the failure of Marin Lumber and Supply Company, a corporation, to continue to render proper and adequate water service from the water system owned by it and used for the purpose of supplying water to certain consumers in and in the vicinity of the town of Duncan's Mills, or Duncan Mills as it is also called, in Sonoma County, California.

In January of this year, informal complaints were made to this Commission to the effect that Marin Lumber and Supply Company, owner of the water system serving the town of Duncan's Mills, had allowed the system to become so run down and out of repair that it was practically impossible to obtain an adequate or continuous supply of water and that all requests made upon the company to make the necessary repairs had met with complete refusal. Upon taking this matter up informally with Marin Lumber and Supply Company, Philip R. Thayer, in his capacity of president of said company, denied that the system was operated as a public utility and flatly refused to expend any time or money whatsoever in placing the system in a proper operating condition. All informal negotiations on the part of this Commission with the company having resulted in failure to obtain the improvement of conditions complained of, on the thirteenth day of July, 1927, the Commission, on its own motion, instituted an investigation into the affairs of Marin Lumber and Supply Company to determine the status of the water service heretofore rendered by it and its predecessors in interest and the reasons, if any, for the failure of said company to continue the service to the public and to determine by order the nature of the duties and the extent of the obligations of said company to continue its public utility obligations and liabilities in the furnishing of water to consumers in the town of Duncan's Mills.

A public hearing in this matter was held in Duncan's Mills on

Tuesday, August 30, 1927, after all interested parties had been duly notified and given an opportunity to appear and be heard.

The record herein discloses that a copy of the Commission's order instituting this investigation and containing a notice of this hearing was served upon Marin Lumber and Supply Company, a corporation, at its offices, 215 Market street, San Francisco, California, by registered mail, and that acknowledgment of the receipt of such service on the part of Marin Lumber and Supply Company was made by Philip R. Thayer, president, in a letter to the Commission under date of August 19, 1927, which reads in part as follows:

The Marin Lumber and Supply Company is not operating a water system and has no intention of doing so. The company came into possession of certain lands in and near Duncan Mills, Sonoma County, by foreclosure of a mortgage. The company has taken over no public utility by purchase or otherwise. The water on its own property is for its own needs.

The writer will be unable to attend the hearing scheduled for August 30th, as he will be in the east at the time. The company will, therefore, have no representative at the hearing.

As forecast by the above letter, no one appeared at the hearing for or in behalf of Marin Lumber and Supply Company.

From the documentary evidence, it appears that certain property in and about the present town of Duncan's Mills was acquired in the early seventies by Alexander Duncan and Samuel M. Duncan, Jr. Thereafter, on February 3, 1877, said Alexander Duncan, Samuel M. Duncan, Jr., and John F. Bixbee, together with certain other associates, formed and organized the Duncan's Mills Land and Lumber Company, a corporation, the articles of incorporation of which were filed in the office of the county clerk of the city and county of San Francisco, State of California, on the sixth day of February, 1877, and filed in the office of the Secretary of State of the State of California on the seventh day of February, 1877. Duncan's Mills Land and Lumber Company applied for authority to change its corporate name to Marin Lumber and Supply Company, which was granted by a decree of the superior court of the State of California, city and county of San Francisco, endorsed and filed January 29, 1918. The corporate existence of Marin Lumber and Supply Company was extended for a period of fifty years from and after the fifteenth day of January, 1927, a certificate of the proceedings thereof having been filed on the fifth day of February, 1927, in the office of the county clerk of Sonoma County and filed in the office of the Secretary of State of the State of California on the third day of February, 1927.

According to the testimony, logging and milling operations had been conducted by, or on the property of, the Duncan's Mills Land and Lumber Company for a great many years and by various individuals, firms or corporations until about four years ago, at which time the

mill was burned. Since then no further logging or milling operations have been conducted on these properties. For a great many years, the mill was operated by the Duncan's Mills Land and Lumber Company; other interests acquired the properties by purchase, or by lease, or otherwise operated and were in control thereof at various times. On the eighteenth day of January, 1921, W. D. Mitchell and S. A. Mitchell by indenture recorded in the office of the county recorder of Sonoma County April 5, 1921, purchased these properties from Marin Lumber and Supply Company and the said Mitchells, together with other associates, formed a corporation under the laws of the state of Delaware known as Mitchell and Virden Lumber Company for the purpose of continuing the logging and milling industries and otherwise developing the properties. The original and the amended articles of incorporation of this company were filed with the secretary of state of the state of Delaware on the twenty-fourth day of October and the thirteenth day of November, 1922, respectively, and were filed in the office of the Secretary of State of the State of California on the twenty-ninth day of November, 1922.

It further appears from the record that in negotiating for the purchase of the mill and other properties of Marin Lumber and Supply Company, W. D. Mitchell and S. A. Mitchell, on the eighteenth of January, 1921, mortgaged the said properties to Marin Lumber and Supply Company. Thereafter, said Marin Lumber and Supply Company regained ownership, control and possession of the above properties by a foreclosure sale under, and by virtue of, judgment and a decree of the superior court of the County of Sonoma, entered October 1, 1925, and commissioner's sale under date of November 16, 1926, and has been ever since and is now in control and possession of said properties.

The evidence in this proceeding also establishes the fact that the water system involved in this proceeding was originally installed for the purpose of supplying the water necessary for the operation of the sawmill and other activities, together with the supplying of water for domestic and other purposes to employees of the mill and residents of the town of Duncan's Mills, and that water has been so supplied by this water system for a long period of years. The water for this system originally was and still is obtained from a small stream fed by a spring at a point about three miles north of Duncan's Mills and located on lands belonging to Marin Lumber and Supply Company. The water is diverted through a timber flume about 6 inches by 12 inches in section and approximately 100 feet in length, flowing into a wood-stave storage tank of about 1300 gallons capacity. A transmission line, mainly 3½-inch casing, carries this water approximately three miles and delivers it into two tanks of about 18,000 gallons capacity each, situated at the

northern edge of the town. From these latter two tanks distribution is made to the about twenty-two consumers, including the Northwestern Pacific Railroad Company, which uses the water for station and engine purposes. No definite information is available as to the exact date of the installation of the tanks and pipe lines. However, from the testimony, it is certain that practically all of the present equipment, including most of the pipe lines, has been in place for well over thirty years and a portion of the plant has undoubtedly been in service for a considerably greater period.

Marin Lumber and Supply Company supplies water to twelve consumers living in cottages which it owns, the water charges being included in the rent collected therefor. There are eight other consumers not occupying houses or buildings owned by the company but who for a great many years last past have been charged and have paid a monthly water rate to this company and/or its predecessors in interest up to and including the month of December, 1926. In addition to these, the Northwestern Pacific Railroad Company, formerly the North Pacific Coast Railroad, for many years has received and now receives water service for the use at its station and for two engine tanks, one located in Duncan's Mills and the other on the Cazadero branch line near Fraser. There are no private wells in the vicinity furnishing a potable water supply and no water system other than a private supply furnishing water to the properties of the Morrell Ranch situated adjacent to the town.

The evidence shows that since January, 1927, Marin Lumber and Supply Company has refused to accept payment for water service and has wholly failed to repair and maintain the pipe lines, storage tanks and connecting facilities, with the result that since that time the water supply has been intermittent and interrupted for long periods of time and, in general, the supply has been wholly undependable. The refusal of Marin Lumber and Supply Company to make the required improvements has made it necessary for the various consumers to patch up the system themselves in order to maintain a sufficient supply of water for household and sanitary purposes. The testimony of E. S. Hall, appearing for and in behalf of the Northwestern Pacific Railroad Company, shows that this company has been compelled to send its own crew of men over this water system at various times during this year in order to obtain a sufficient supply of water for the use of the station and its employees living in the town of Duncan's Mills. The railroad company has also been forced to secure water for engine purposes at other points by reason of the fact that many times the water supply was insufficient for domestic requirements, thereby leaving no water available for engine use. The testimony further indicates that, although the entire system needs renewal and replacement, the tanks, intake and

pipe lines can be put in such condition as to render a reasonable service for at least two more years by the expenditure of a sum of money not in excess of \$300.

In view of the attitude of Marin Lumber and Supply Company that it is not now delivering or selling water to anyone as a public utility and that it has at no time ever engaged in such a business, it may be well to discuss in some detail the evidence presented by the record as to the sale and distribution of water by various owners and operators of this system.

For a great number of years, the Duncan's Mills Land and Lumber Company supplied water service to the Northwestern Pacific Railroad Company or its predecessor in interest, the North Pacific Coast Railroad Company, at Duncan's Mills for use in the station and for engine purposes. This service has been charged for at the rate of \$15 per month and payment has been made therefor and entered into the books by vouchers of the Northwestern Pacific Railroad Company. This service has been rendered continuously and without interruption throughout the succession of various ownerships and managements of the mill and other properties now belonging to Marin Lumber and Supply Company. General service to the community has been so delivered during the period in which the Mitchell and Virden Lumber Company operated the properties, during most of the time the said properties were owned or controlled by the Duncan's Mills Land and Lumber Company and, since regaining control and possession, Marin Lumber and Supply Company has also delivered water to the consumers for which it has accepted payment up to and including the month of December, 1926.

Mrs. M. (Modesta) DeCarley, who has been a resident of the town of Duncan's Mills for over forty years, testified that she owns property in the said town which was acquired from Alexander Duncan and Ann Jane Duncan, his wife, by her husband, J. B. DeCarley, now deceased, on the eighth day of August, 1896, and duly recorded August 15, 1896, in the office of the county recorder of Sonoma County, and was acquired by her upon the probate and distribution of the estate of her husband through a court decree of the superior court of Sonoma County, dated June 4, 1900; that this property has never at any time been owned or controlled by the Duncan's Mills Land and Lumber Company or any of its successors in interest; that she is now operating a general merchandise store on a part of said property and occupying a residence located on another part thereof; that for the past thirty years she has received water from the water system now owned by Marin Lumber and Supply Company and has been charged for such service and has paid for same up to and including the month of December, 1926. It furthermore appears that water service has been

rendered to her property through and by means of this water system continuously during this period.

Victor Pedroia, a resident of Duncan's Mills for sixteen years last past, testified that he has been a customer of this water utility for the last fourteen years, receiving water for use at his residence, slaughterhouse, and livery stable during the entire period; that none of the property served belongs to Marin Lumber and Supply Company or any of its predecessors in interest, and, in so far as his knowledge goes, has never at any time been owned or controlled by it or any of its predecessors in interest. The rate charged for this service has been \$3.50 per month.

Mrs. W. F. Wiley's testimony shows that she has been a resident of Duncan's Mills for more than fourteen years; that she lives in property not owned or controlled by Marin Lumber and Supply Company and has received and paid for water furnished by this system to this property during the entire fourteen years.

The testimony of S. R. Hayden, a resident of Duncan's Mills for fifteen years last past, and also the testimony of Harry McLaren, a resident of the same town for well over thirty years, is to the effect that water has been served by the Duncan's Mills Land and Lumber Company and its successors in interest without interruption to any and all applicants for such service and that it has always been customary and the practice of the operators of the said mill properties to make a charge and collect for the water supply from this system to those consumers not occupying houses owned by the company, firm or individual then operating the properties; that water service has never been refused to anyone requesting the same, irrespective of whether or not such request came from a person living in a company house and working for the company or from a person living on private property and engaged in private enterprise.

The testimony of Joe Acquistapace, a resident of Duncan's Mills and a former employee for a great many years of the Duncan's Mills Land and Lumber Company and its successors in interest, is to the effect that within his own knowledge water has been supplied to the entire community from this system continuously for at least forty years.

At the request of the Commission, rates charged for service rendered to consumers by means of this system were filed with the Commission on April 6, 1921. This occurred during the period the properties involved herein were operated by Mitchell and Virden Lumber Company and the rates were filed under the name of Duncan's Mills Water Company, signed by W. P. McFaul, manager. According to the evidence, said McFaul was associated with the Mitchell and Virden interests and the name given the water system was merely a fictitious

name, apparently arbitrarily chosen to segregate the water operations from the other activities of the lumber company.

During the latter period of the regime of the Mitchell and Virden Lumber Company, Silvio DeCarley was appointed as its agent in looking after and operating the water system, collecting rents from the said company's houses and other of its properties, and collecting bills for water service. Since Marin Lumber and Supply Company regained control and possession of the mill and other properties under foreclosure proceedings referred to above, said DeCarley has remained in the capacity of collector of rents and water bills for the present owner, and, although still receiving rents paid by tenants of the company's properties, has been notified by said company to collect no more bills for water service after bills rendered for the month of December, 1926. None of the moneys collected for water service and paid to Marin Lumber and Supply Company by DeCarley since said company regained control and possession of its properties have been returned to any of the consumers.

At no time during the operation of this water system have any of its owners, operators, agents or representatives ever applied to this Commission or been granted authority to increase the rates charged for service or to encumber, sell, or transfer said water system or any part thereof, or to abandon or discontinue its public utility obligations and liabilities.

The evidence, both oral and documentary, presented in this case establishes to the satisfaction of this Commission that the owner of the water system supplying water to the consumers in and in the vicinity of Duncan's Mills is the Marin Lumber and Supply Company; that, except as to those portions of the pipe lines located on public highways, streets or alleys, the entire intake, collection, storage and distribution facilities are located upon lands belonging to said company; that for a period of at least forty years last past the waters of this system have been dedicated to the public use without interruption, except possibly as to fluctuation of flow or accident; that water has been sold for compensation to all applicants for service whether or not said applicants have been residing in houses owned by Marin Lumber and Supply Company or its predecessors in interest; that no water service has ever been refused to anyone residing in or in the vicinity of Duncan's Mills and within the service area of this system who has requested same; that the service has been rendered continuously throughout the above period up to and including the month of December, 1926; that the several purported transfers of the property thus devoted to public service were void because never authorized by this Commission; and that the defendant, as successor to the Duncan's Mills Land and Lumber Company, is now in possession of this system, and must continue to

render this service unless and until authorized to discontinue the same by this Commission.

There can be no other conclusion than that the waters of this system were originally dedicated to the public use by the Duncan's Mills Land and Lumber Company and that such dedication has continued unimpaired throughout a succession of various operators to and including the present owner, Marin Lumber and Supply Company.

Although the rates of this water system were not filed with this Commission until the sixth day of April, 1921, nevertheless, the public utility obligations and liabilities had impressed and attached themselves to this water system from the beginning of the dedication of the waters thereof to public use and were not at any time terminated in any legal manner by any of the successive owners or operators of this system, and, since the establishment of this Commission, could not have been so terminated without its authority, which has never been granted. It is therefore apparent that Marin Lumber and Supply Company has not properly fulfilled its duties and obligations to the public as an operator of a public utility water system by reason of its failure to maintain properly its water system and its failure to provide an adequate and sufficient water supply to its consumers. This corporation may not now arbitrarily discontinue the service to the public, and Marin Lumber and Supply Company will therefore be required to take immediate steps toward placing its water system in suitable operating condition, and will be required to render continuous and adequate service to all of its public utility consumers.

The evidence in this matter shows that this company has failed to maintain a proper structure to insure diversion of water from the stream into the intake flume; that said flume or trough used to transmit water from the stream into the collecting tank has rotted away to such an extent that it can not carry sufficient water to meet the system's demands; that the collecting tank and the two distribution storage tanks, together with their supporting structures, are in such a state of disrepair as to be incapable of proper functioning without immediate attention; that one of the storage tanks already has fallen down through lack of proper maintenance and that the transmission and distribution mains are badly rusted and leaking in many places.

The following form of order is recommended:

ORDER.

The Commission having upon its own motion instituted an investigation into the reasonableness of the rates, charges, practices, contracts, rules, regulations, schedules and conditions of service, or any of them, of Marin Lumber and Supply Company, a corporation, operating a water system supplying consumers in and in the vicinity of Duncan's

Mills, Sonoma County, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises;

It is hereby ordered, that Marin Lumber and Supply Company, a corporation, resume the delivery of water to all of its public utility consumers in and in the vicinity of Duncan's Mills, Sonoma County, on or before twenty days from the date of this order and thereafter continue to render said service to said consumers until further order of this Commission.

It is hereby further ordered, that Marin Lumber and Supply Company, a corporation, file with this Commission, within twenty days from the date of this order, the schedule of rates now in effect on its water system supplying consumers in and in the vicinity of Duncan's Mills, Sonoma County, together with rules and regulations governing service to its consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

It is hereby further ordered, that Marin Lumber and Supply Company, a corporation, within twenty days from the date of this order, file with this Commission, and subject to its approval, plans for the improvement of its water system supplying water to certain consumers in and in the vicinity of Duncan's Mills, Sonoma County, such plans to provide for the delivery to said consumers of an adequate and dependable water supply and said improvements to be installed and in proper operation, in a manner acceptable to this Commission, on or before the thirtieth day of November, 1927.

The effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18947.

IN THE MATTER OF THE APPLICATION OF LA HABRA DOMESTIC WATER COMPANY, A CORPORATION, FOR A CERTIFICATE AUTHORIZING THE ISSUANCE AND SALE OF ITS CAPITAL STOCK.

Application No. 14102.

Decided October 25, 1927.

SECURITIES—Stock.—La Habra Domestic Water Company authorized to issue \$15,000 of common capital stock to reimburse treasury and thereafter distribute as a stock dividend; also to issue and sell at not less than par \$10,000 of its 7 per cent preferred stock and \$10,000 of its common stock to pay indebtedness and cost of additions and betterments.

ACCOUNTING—ACCOUNTS TO WHICH PARTICULAR ITEMS CHARGEABLE—SURPLUS ACCOUNT.—Donations and surplus as a result of a revaluation are not proper credits to unappropriated surplus, as the Commission has held (*Bell Water Co.*, 25 C. R. C. 858, 859) that neither donations nor an increase in the asset accounts due to a revaluation of properties results in surplus profits available for dividends.

Albert Launer, for Applicant.

BY THE COMMISSION.

OPINION.

La Habra Domestic Water Company asks permission to issue and sell \$10,000 of its 7 per cent preferred stock and \$10,000 of its common stock and use the proceeds obtained from the sale of such stock for the purposes hereinafter mentioned. It also asks permission to issue \$20,000 of its common stock for the purpose of reimbursing its treasury and thereafter distribute such stock as a dividend to its present stockholders.

Applicant has an authorized stock issue of \$100,000 divided into 2000 shares of the par value of \$50 each and consisting of \$40,000 of 7 per cent preferred stock and \$60,000 of common stock. At present it reports \$30,000 of the preferred and \$30,000 of the common stock outstanding.

As of January 1, 1927, it reports assets and liabilities as follows:

<i>Assets.</i>	
Fixed capital installed.....	\$99,881 58
Franchise.....	\$344 98
Real estate.....	8,000 00
Buildings.....	5,160 10
Well.....	5,058 00
Pumping equipment.....	8,112 51
Distribution mains.....	48,708 64
Reservoir.....	6,668 69
Service lines.....	2,137 50
Meters.....	14,043 36
Office equipment.....	631 87
Shop equipment.....	516 57
Garage equipment.....	499 66
Cash in bank.....	983 00
Deposit (city of La Habra).....	25 00
Notes receivable.....	4,074 91
Accounts receivable.....	2,165 70
La Habra Water Company stock.....	9,256 87
Tools and supplies.....	847 48
Total assets.....	\$117,234 54
<i>Liabilities.</i>	
Capital stock.....	\$60,000 00
Notes payable.....	9,729 00
Accounts payable.....	5,669 84
Consumers deposits.....	438 25
Donations in aid of construction.....	3,402 62
Depreciation reserve.....	14,617 51
Surplus.....	28,877 82
Total liabilities.....	\$117,234 54

As of September 1, 1927, applicant reports \$17,700 of notes outstanding. These notes were issued to obtain funds to pay construction expenses.

Applicant intends to sell the \$20,000 of stock referred to herein for cash at par. It asks permission to use for the purpose of paying commissions and expenses incident to the sale of the stock an amount equal to not exceeding 5 per cent of the par value of the stock sold. It further asks permission to sell the stock on the installment plan, under which plan the purchaser would be required to pay 10 per cent of the subscription price at the time of subscription and the remaining 90 per cent in not less than nine succeeding equal monthly payments, the deferred payments to bear interest at the rate of 7 per cent per annum. It intends to use the proceeds other than the 5 per cent to pay outstanding notes which have been issued for the purpose of paying for additions and betterments, and install additional improvements. In this connection it reports that it will be called upon to expend during the next succeeding eight months the sum of \$9,000 for the purpose of acquiring and installing 3000 feet of 12-inch cast iron distributing mains, 1000 feet of 6-inch cast iron distributing mains and 2000 feet of 4-inch cast iron distributing mains, together with all gates and fittings necessary for the completion thereof.

As of January 1, 1927, applicant reports an accumulated surplus of \$23,377.82. An analysis of this surplus was made by a representative of the Commission's department of finance and accounts. His report shows that the surplus includes \$3,984.87 of donations and that \$4,336.92 was credited to surplus as a result of the revaluation of applicant's properties. In our opinion neither of the two amounts are proper credits to unappropriated surplus. The Commission has heretofore held that neither donations, nor an increase in the asset accounts, due to a revaluation of properties, results in surplus profits available for dividends (Vol. 25, Opinions and Orders of the Railroad Commission of California, page 858). The amount of stock which applicant may issue to reimburse its treasury and pay a stock dividend should, in our opinion, not exceed \$15,000.

ORDER.

La Habra Domestic Water Company having asked permission to issue \$10,000 of its 7 per cent preferred stock and \$30,000 of common stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the company should be permitted to issue said preferred stock and \$25,000 of common stock and that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part properly chargeable

to operating expenses or to income and that this application should be granted as herein provided; therefore

It is hereby ordered, as follows:

1. La Habra Domestic Water Company may issue \$15,000 of its common capital stock for the purpose of reimbursing its treasury on account of income expended for additions and betterments and thereafter distribute such stock in accordance with law as a stock dividend.

2. La Habra Domestic Water Company may issue and sell at not less than par \$10,000 of its 7 per cent preferred stock and \$10,000 of its common stock and may expend, if necessary, of the proceeds realized from the sale of such stock an amount of not exceeding 5 per cent of the par value of the stock sold to pay commissions and other expenses incident to the sale of the stock and use the remainder of the proceeds together with such portion of the 5 per cent not needed for the afore-said purposes to pay indebtedness and to pay the cost of additions and betterments referred to in this application.

3. La Habra Domestic Water Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted will become effective upon the date hereof.

5. This application, in so far as it involves the issue of \$5,000 of common stock, is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18948.

IN THE MATTER OF THE APPLICATION OF FRANK MULLENS, DOING BUSINESS UNDER THE FICTITIOUS NAME OF BURBANK TRANSFER, TO SELL, AND OF S. B. COWAN TO PURCHASE, AN OPERATIVE RIGHT FOR THE TRANSPORTATION OF FREIGHT BY MOTOR TRUCK BETWEEN LOS ANGELES AND BURBANK VIA GLENDALE.

Application No. 14149.

Decided October 25, 1927.

TRANSFER—OPERATIVE RIGHT.—Frank Mullens, doing business under the fictitious name of Burbank Transfer, authorized to sell, and S. B. Cowan to purchase, operative right for the transportation of freight by motor truck between Los Angeles and Burbank via Glendale.

VALUATION—PARTICULAR INTANGIBLE PROPERTY—OPERATIVE RIGHTS CERTIFICATES—JURISDICTION, POWERS AND DUTIES OF COMMISSION.—Operative rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. They are permissive and

extend to the holder a full or partial monopoly of a class of business over a particular route, which monopoly may be changed or destroyed at any time by the state, which is not in any respect limited to the number of rights which may be given. (See also Decision No. 18958 in Application No. 14040.)

BY THE COMMISSION.

OPINION AND ORDER.

Frank Mullens has petitioned the Railroad Commission for an order approving the sale and transfer by him to S. B. Cowan of an operating right for an automotive service for the transportation of freight between Los Angeles, Glendale and Burbank, and S. B. Cowan has applied for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$5,500. Of this sum \$4,500 is declared by applicants to represent the value of certain equipment and \$1,000 is said to represent the value of intangibles.

The operating right herein proposed to be transferred was originally granted by the Railroad Commission to C. A. Chambers by Decision No. 7491, dated April 26, 1920, and issued on Application No. 4499, which decision authorized Chambers to operate an automotive trucking service between Burbank and Los Angeles via Glendale. By Decision No. 8698, dated March 4, 1921, and issued on Application No. 6591, the Commission authorized Chambers to sell and transfer the operating right to F. A. Mullens. On June 16, 1922, by Decision No. 10592, issued on Application No. 7825, the Commission authorized Mullens to sell and transfer to Chambers a one-half interest in the operating right and the service was operated by the partnership until December 7, 1922, when the Commission, by Decision No. 11331, issued on Application No. 8469, authorized Chambers to sell and transfer his interest to Mullens.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

The purchaser is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not in any respect limited to the number of rights which may be given. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

It is hereby ordered, that the above entitled application be and the same hereby is granted, subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2. Applicant Mullens shall immediately unite with applicant Cowan in common supplement to the tariffs on file with the Commission, applicant Mullens on the one hand withdrawing, and applicant Cowan on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Mullens shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Cowan shall immediately file, in duplicate, in his own name, time schedules covering service heretofore given by applicant Mullens, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Mullens, or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicant Cowan unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. The order herein is not to be construed as authority for applicant Cowan to link up or join the operating right herein authorized to be transferred with operating rights now owned by him.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18954.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL ONE MILLION FIVE HUNDRED THOUSAND DOLLARS PAR VALUE OF ITS COMMON CAPITAL STOCK.

Application No. 13361.

Decided October 25, 1927.

SECURITIES—USE OF PROCEEDS.—Southern Counties Gas Company of California authorized to use the remaining \$750,000 of proceeds obtained from the sale of common stock authorized by Decision No. 18064 to reimburse treasury and finance expenditures.

LeRoy M. Edwards, for Applicant.

BY THE COMMISSION.

FIRST SUPPLEMENTAL OPINION.

In a supplemental petition filed in the above entitled matter on October 3, 1927, Southern Counties Gas Company of California asks the Railroad Commission to make an order authorizing it to use \$750,000 obtained from the sale of the common stock authorized to be issued by Decision No. 18064, dated March 14, 1927, for the purpose of reimbursing its treasury on account of earnings expended for capital purposes.

By Decision No. 18064 the Commission authorized the company to issue and sell for cash at not less than par \$1,500,000 of its common capital stock and to use \$750,000 of the proceeds to reimburse its treasury on account of earnings expended for the acquisition and construction of properties prior to November 30, 1926. The remaining \$750,000 of proceeds, according to the order, may be used only for such purposes as the Commission might authorize in supplemental order or orders.

In Exhibit B supplemented by exhibits one and two, applicant reports constructive expenditures of \$3,032,863.68 against which according to the testimony no bonds and only a nominal amount of stock has been issued. The \$3,032,863.68 has been financed through the investment of reserves (\$2,286,659.73) and surplus (\$2,550,437.90). Applicant asks permission to use \$750,000 obtained from the sale of stock to reimburse its treasury because of earnings used to pay for said expenditures.

This request, we believe, can be granted without giving any consideration to applicant's exhibits three, five or six. We have made no determination of the correctness of the amounts available for security issues as reported in said exhibits.

The authority herein granted should not be construed as an approval of applicant's reported expenditures (Exhibit B) in excess of \$750,000, except as such expenditures may have been heretofore approved, nor should it, on the other hand, be construed as limiting to \$750,000 the amount of securities which applicant may properly issue against its past expenditures.

FIRST SUPPLEMENTAL ORDER.

Supplemental petition having been made to the Railroad Commission by Southern Counties Gas Company of California for an order authorizing the use of proceeds obtained from the sale of stock heretofore authorized to be issued, a further hearing having been held before Examiner Faulkhauser and the Railroad Commission being of the opinion that the expenditures of such proceeds are reasonably required for the purposes herein specified and are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that the order in Decision No. 18064, dated March 14, 1927, be and it hereby is modified so as to permit Southern Counties Gas Company of California to use the remaining \$750,000 of the proceeds obtained from the sale of the common stock authorized by said decision to be issued, to reimburse its treasury and to finance in part the expenditures referred to in the foregoing supplemental opinion, made prior to July 31, 1927, provided that only such expenditures as are chargeable to fixed capital accounts under the uniform system of accounts prescribed by the Commission be so financed.

It is hereby further ordered, that the order in Decision No. 18064, dated March 14, 1927, shall remain in full force and effect, except as modified by this first supplemental order.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18955.

IN THE MATTER OF THE APPLICATION OF DELTA TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE COMMON STOCK.

Application No. 13461.

IN THE MATTER OF THE APPLICATION OF DELTA TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AUTHORITY TO REVISE EXCHANGE AREAS AND TO ADJUST RATES FOR TOLL AND EXCHANGE SERVICE.

Application No. 13462.

Decided October 25, 1927.

SERVICE—TELEPHONE UTILITY—REVISION OF EXCHANGE AREAS—RATES—SECURITIES.—Delta Telephone and Telegraph Company authorized to revise exchange areas in Courtland, Isleton, and Walnut Grove; to adjust rates for toll and exchange service; and to issue and sell, at not less than 90 per cent of par value, \$40,000 par value of its common capital stock to pay cost of installing improvements.

RETURN—OPERATING EXPENSES—COMMISSION AND LEGAL PROCEEDINGS RETURN—ALLOWANCE FOR AMORTIZATION—COMMISSION EXPENSE.—In estimating operating expenses the Commission provided for the amortization of the reasonable cost of a rate proceeding.

RETURN—OPERATING EXPENSES—LOSSES—IN GENERAL.—In estimating operating expenses the Commission's engineers did not allow anything to cover the loss sustained by a telephone company in conducting a boarding house for its operators.

SECURITY ISSUES—PURPOSE—PAYMENT FOR REPLACEMENTS—DEPRECIATION—RESERVES—PURPOSE AND USE—IN GENERAL.—Retirement of properties should in part at least be financed through charges to depreciation reserve and not through the issue of stock.

A. N. Johns and Devlin and Devlin, by *A. I. Diepenbrock*, for Applicant.

Louis S. Wetmore, for Libby, McNeill and Libby and Ivan K. Pemberton.

J. J. Deuel and Edson Abel, for California Farm Bureau Federation, Protestant.

Ernest Erwin, for California Independent Telephone Association.

BY THE COMMISSION.

OPINION.

The above entitled applications were consolidated for hearing and decision.

In Application No. 13462 Delta Telephone and Telegraph Company asks permission to issue and sell 500 shares (\$50,000 par value) of its common capital stock at not less than \$85 per share and use the proceeds for the purposes hereinafter stated.

In application No. 13462 Delta Telephone and Telegraph Company asks permission to revise its exchange areas and to make such adjustments and changes in its rate schedules as will accord with the proposed changes in operating methods, and will yield applicant a reasonable return upon the fair value of the property devoted to public use.

Public hearings were held in these matters before Examiner Fankhauser at Sacramento on March 24, August 23 and August 24, 1927.

Delta Telephone and Telegraph Company, hereinafter sometimes referred to as applicant, or the company, is engaged in the business of furnishing telephone and telegraph service to subscribers located along the Sacramento River from a point about three miles south of the southerly limits of the city of Sacramento to approximately 28 miles southerly thereof, including the towns or communities of Courtland, Walnut Grove, Isleton, Freeport, Clarksburg, Hood, Paintersville, Ryde and Vorden. Applicant has central offices located at Courtland and Isleton. Its lines connect with those of The Pacific Telephone and Telegraph Company at Sacramento and with those of the Rio Vista Telephone Company at Rio Vista.

The company is operating under a peculiar rate schedule. For exchange telephone service it makes a monthly charge of \$1.75 for business or residence service. This monthly rental entitles the subscriber to the following:

- (a) Free calls, unlimited, between stations on the same line.
- (b) Fifteen messages, each of three minutes or less duration, to any of the company's subscribers not on the same line, all excesses over the three minute limit to be paid for at the overtime rate shown in (c) below.
- (c) All messages to company's stations in excess of the fifteen allotted in paragraph (b) above, except as provided in paragraph (a) above, shall be paid for at the rate of ten cents for the first three minutes or fraction thereof, and five cents for each additional minute or fraction thereof.

The toll rates now in effect provide for a charge of thirty cents for the first three minutes and ten cents for each additional minute or fraction thereof for messages between Sacramento and Courtland and

Sacramento and Isleton. The initial rate between Sacramento and Rio Vista is five cents higher. Toll rates for service between Rio Vista and points on applicant's system, except Sacramento, are fifteen cents for the first three minutes and five cents for each additional minute or fraction thereof.

To satisfy the increasing demand for telephone service throughout its territory and particularly at Walnut Grove, applicant proposes to establish a new exchange area, with a central office at Walnut Grove, and operate its system on the plan of three separate exchanges; one at Courtland, one at Isleton and one at Walnut Grove, with toll rates effective between any two. It plans to install automatic equipment at both Walnut Grove and Isleton because of the difficulty of securing and retaining the services of experienced operators. All toll business would be handled by operators at the Courtland central office where the company proposes no change.

In its exhibits No. 4 and No. 6 applicant submitted its proposed rates for exchange flat rate service in the Walnut Grove and Isleton exchange areas and for toll and telegraph service for interexchange communications over its entire system. Flat rate schedules were designed to apply in connection with primary rate areas to be established for Walnut Grove and Isleton exchanges, although applicant submitted no map showing the extent of such areas. No change in either service or exchange rates is suggested by applicant for its Courtland exchange.

We are unable to agree with applicant that the present rates and present type of service should be continued at Courtland, while an entirely different rate schedule and type of service is proposed by applicant for both Isleton and Walnut Grove. We believe that the same rate schedule should be in effect throughout the territory served by applicant. It appears that the demand for telephone service at Walnut Grove justifies the installation of an automatic central office at that point, and the replacement of the present central office equipment at Isleton with automatic. Inasmuch as the personnel of the operating force which is required to complete toll messages at Courtland can also act as local operators, there is no need for installing automatic equipment at Courtland. We do believe, however, that applicant's patrons in Courtland should be given common battery service, and the order will provide for such changes as may be necessary to furnish common battery service to all subscribers located in the primary rate area of the Courtland exchange.

It is our opinion that the gross cost of the installation of the automatic exchange at Walnut Grove and Isleton, the proposed change at Courtland and the installation of other necessary changes and addi-

tions, and betterments for a period of one year, should not exceed \$43,177, while the net cost should not be more than \$32,750.

Estimates of the historical cost of applicant's properties as of August 31, 1926, were submitted both by the company and by the engineering department of the Commission. The former estimates the historical cost of its properties at \$218,232, the latter at \$197,061, including materials and supplies. Reproduction cost new of the properties is reported by the company at \$262,855 and the reproduction cost new less depreciation at \$217,928. The engineering department of the Commission did not submit an estimate of the reproduction cost new of the properties. The difference in the historical cost estimate between those submitted by the company and that of the Commission's engineering department is due in general to using different unit prices and allowances for overhead, and the exclusion by the Commission's engineers of \$2,000 representing the value of land which, in their opinion, is nonoperative. Neither estimate includes any allowance for going concern value. It is of record that from September 1, 1926, to June 30, 1927, the company expended for additions and betterments the net amount of \$4,548. Assuming that the company will install the improvements to which reference has been made and giving due consideration to the evidence submitted, we find the average rate base for the period March 1, 1927, to February 28, 1928, to be as follows:

Operative property, less materials and supplies, as of August 31 1926	\$197,346 00
Additions and betterments, September 1, 1926, to June 30, 1927--	4,548 00
Estimated additions and betterments.....	32,700 00
Materials and supplies and working cash capital.....	7,000 00
Total	\$241,594 00

The record shows that applicant during 1926 had operating revenues of \$59,003.23 and that its operating expenses, exclusive of taxes, amounted to \$41,308.83. Considering the taxes (\$5,406.72) as part of the operating expenses, applicant for 1926 had a net operating revenue of \$12,287.70. The operating expenses include \$8,818 for general expenses, which, we believe, is excessive. Such expenses should, in our opinion, not have exceeded \$5,300. Giving effect to this adjustment, we find that applicant during 1926 realized a fair return on its properties.

Applicant urges that for 1927 it should be allowed \$54,000 for operating expenses, including depreciation and taxes, and \$19,680 for a fair return, or a total revenue of \$73,680. F. M. Casal, an assistant engineer for the Commission, estimates that if applicant's proposed rates and service were in effect for the year ending February 28, 1928, its operating revenue would amount to \$76,200. The estimated operating expenses of \$54,000 are segregated by applicant as follows:

Maintenance expenses, including \$11,000 for depreciation-----	\$19,755 00
Traffic expenses-----	11,400 00
Commercial expenses-----	3,940 00
General expenses-----	8,800 00
Uncollectible accounts-----	170 00
Taxes (state \$4,000, federal \$2,200)-----	6,200 00
Rent for poles-----	44 00
Amortized over a period of five years, estimated cost of this proceeding (\$15,000) and certain extraordinary losses-----	3,600 00
Total -----	\$53,909 00

The general expenses in the estimate are substantially the same as the actual reported for 1926. No evidence was submitted to justify a general expense of \$8,800, neither was any testimony offered to show the actual cost of this proceeding. Should such cost equal the estimate, we find the same to be excessive and that its total amortization should not be allowed by charges to operating expenses. Our estimate of operating expenses provides for the amortization of what we consider to be a reasonable cost of this proceeding. The Commission's engineers in their estimate of operating expenses did not allow anything to cover the loss sustained by the company in conducting a boarding house for its operators at Courtland. The record shows that during the past year two and sometimes three of its operators patronized the company's boarding house. R. E. Hart, assistant manager of applicant, testified that if the company were to cease the operation of the boarding house the wages of all operators would have to be increased.

After giving due consideration to the evidence submitted, we find the following to be a reasonable allowance for operating expenses:

Maintenance expenses, including \$9,530 for depreciation annuity, 5 per cent sinking fund basis-----	\$19,370 00
Traffic expenses-----	10,790 00
Commercial expenses-----	3,620 00
General expenses-----	5,810 00
Taxes assignable to operation-----	5,580 00
Rent for pole lines-----	40 00
Uncollectible revenue-----	170 00
Total -----	\$45,380 00

The rate schedule attached to the order herein as "Exhibit A" we believe will produce an operating revenue of \$62,800, which is sufficient to cover the estimated operating expenses and yield a return of slightly more than 7 per cent on a rate base of \$241,594.

There is also attached to the order herein as "Exhibit B" maps showing the primary rate areas of the Courtland, Isleton and Walnut Grove exchanges and as "Exhibit C" the exchange area boundary of each of the exchanges.

In Application No. 13461 the Delta Telephone and Telegraph Company asks permission to issue and sell \$50,000 of stock at 85 per cent of its par value and use the proceeds to pay the cost of the improvements

set forth in "Exhibit D" filed in said application. The total cost of the improvements which the company contemplated to install is reported at \$40,000. As it appears, however, from this opinion, the Commission believes that the company should make other changes than those set forth in "Exhibit D." It is our opinion that the total cost of the improvements which the company will be required to make as a condition precedent to the effective date of the rates herein authorized to be charged will not exceed \$43,127 and that the net cost of such improvements should not exceed \$32,750. It occurs to us that the retirement of properties should in part at least be financed through charges to the company's depreciation reserve and not through the issue of stock. The order herein will authorize the company to issue \$40,000 of common stock at not less than 90 per cent of its par value, for the purpose of paying for the improvements referred to in this opinion.

ORDER.

Delta Telephone and Telegraph Company having requested permission to issue stock and for permission to revise its exchange areas and establish a new exchange at Walnut Grove and to make such adjustments in its rate schedules as will accord with the proposed changes, public hearings having been held and the matter having been submitted and the Commission being of the opinion that the money, property or labor to be procured and paid for by the issue of \$40,000 of common stock is reasonably required by the company, and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income, and that in the opinion of the Commission public convenience and necessity require Delta Telephone and Telegraph Company to establish an exchange at Walnut Grove with a corresponding revision in its exchange areas and to publish, file and place in effect rates as hereinafter provided, and basing its order on the foregoing finding of fact and other findings of fact which are set forth preceding this order, the Commission hereby orders as follows:

1. The Delta Telephone and Telegraph Company, after a proper showing to the Railroad Commission that it has completed construction and rearrangements necessary to the rendering of common battery exchange telephone service within the primary rate areas of the Courtland, Isleton and Walnut Grove exchanges, as set forth in the opinion preceding this order, and upon a supplemental order from the Railroad Commission, may:

- (a) Render exchange and toll and telegraph service from a central office at Walnut Grove.
- (b) Establish primary rate areas in Courtland, Isleton and Walnut Grove exchanges, as set forth in "Exhibit B" attached hereto.

- (c) Establish exchange areas for Courtland, Isleton and Walnut Grove exchanges, as set forth in "Exhibit C" attached hereto.
- (d) File with the Railroad Commission and make effective the rates set forth in "Exhibit A" attached hereto.
- (e) File with the Railroad Commission maps showing the primary rate areas and exchange areas for Courtland, Isleton and Walnut Grove exchanges, as set forth in "Exhibits B" and "C" attached hereto.

2. Delta Telephone and Telegraph Company may issue and sell for not less than 90 per cent of its par value \$40,000 par value of its common capital stock and use the proceeds to pay in whole or in part the cost of installing improvements, to which reference is made in the foregoing opinion.

3. Except as otherwise provided in this order, the authority herein granted shall become effective twenty days after the date hereof.

4. Delta Telephone and Telegraph Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

5. Application No. 13461, in so far as it involves the issue of \$10,000 of stock, is hereby dismissed without prejudice.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

"EXHIBIT A."

RATES.

EXCHANGE SERVICE SCHEDULE No. A-1.

General Service.

Applicable to individual and party-line business and residence flat rate service furnished within the primary rate areas of the Courtland, Isleton and Walnut Grove exchanges.

Rate.

	Rate per month			
	Business		Residence	
	Wall set	Desk set	Wall set	Desk set
Each individual line station-----	\$3 25	\$3 50	\$2 75	\$3 00
Each two-party line station-----	2 50	2 75	2 25	2 50
Each four-party line station-----	1 00	1 25	2 00	2 25
Each extension station-----	1 00	1 25	75	1 00

Conditions.

(1) Individual and party-line services will be provided outside the primary rate area and within the exchange area at the above rates plus mileage charge.

(2) Extension sets at the above rates will be installed on the same premises as the primary station.

EXCHANGE SERVICE SCHEDULE No. A-4.

Mileage Rates.

Mileage rates applicable throughout the suburban areas of the Courtland, Isleton and Walnut Grove exchanges.

Rate.

	Rate per each one-quarter mile or fraction thereof, per month
Each individual line primary station-----	\$0 50
Each two-party line primary station-----	35
Each four-party line primary station-----	25

The above rates are based on the airline distance measured between the subscriber's primary station and the nearest point on the boundary of the primary rate area. These rates are applicable to a service located outside the primary rate area, but within the exchange area, in addition to the base rates for similar service furnished within the primary rate area.

EXCHANGE SERVICE SCHEDULE No. A-5.**Suburban Service.****Service.**

Applicable to suburban service furnished within the suburban areas of the Courtland, Isleton and Walnut Grove exchanges.

Rate.

	Rate per month	
	Wall set	Desk set
Each business primary station-----	\$3 00	\$3 25
Each residence primary station-----	2 50	2 75
Each business extension station-----	1 00	1 25
Each residence extension station-----	75	1 00

Conditions.

Suburban service is furnished outside the primary rate area but within the exchange area. In no case will the total number of primary stations connected to one circuit exceed ten (10) stations.

EXCHANGE SERVICE SCHEDULE No. A-11.**Pay Station Service.**

Applicable to service from company's nonlisted public telephone stations throughout the territory served.

Rate.

Each exchange message-----	\$0 05
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Conditions.

Public telephones will be installed by the company at its discretion, in public locations, to meet the general and transient telephone requirements.

EXCHANGE SERVICE SCHEDULE No. A-13.**Supplemental Equipment.****Service.**

Rates applicable to supplemental equipment furnished by the company throughout the entire territory served.

Rate.

Supplemental equipment	Installation charge	Rate per month
Ordinary extension bell-----	\$1 25	\$0 25
Loud ringing gong-----	1 50	50

Conditions.

The equipment covered by the above rates is owned and maintained by the company.

TOLL SERVICE SCHEDULE No. B-1.**General Service.**

Applicable to station-to-station, person-to-person and appointment and messenger interchange toll telephone service over the lines of Delta Telephone and Telegraph Company.

Rate.

(A) Base rates: station-to-station day service initial rates between any two of the following points:

	Between:				Walnut Grove
and	Courtland	Isleton	Rio Vista	Sacramento	
Courtland -----	--	\$0 10	\$0 15	\$0 15	\$0 10
Isleton -----	\$0 10	--	10	25	10
Rio Vista -----	15	10	--	25	10
Sacramento -----	15	25	25	--	25
Walnut Grove -----	10	10	10	25	--

Initial period and overtime period, station-to-station day service:

Where the initial rate is	The initial period is	The overtime period is
\$0 10	5 minutes	3 minutes
15	5 minutes	2 minutes
20	5 minutes	2 minutes
25	5 minutes	1 minute

Overtime rate, station-to-station day service:

Where the initial rate is	The overtime rate is
\$0 10	\$0 05
15	05
20	05
25	05

(B) Person-to-person and appointment and messenger rate and report charge:

Rate for initial period of 3 minutes or less:

Where the station-to-station day service initial rate is	The corresponding completed person-to-person rate is	The corresponding completed appointment and messenger rate is	The corresponding report charge is
\$0 10	\$0 15	\$0 20	\$0 05
15	20	25	10
20	25	30	10
25	30	35	10

Rate for periods in excess of the initial 3-minute period.

Where the initial rate is	The overtime period is	The overtime rate is
\$0 15	1 minute	\$0 05
20	1 minute	05
25	1 minute	05
30	1 minute	10
35	1 minute	10

(C) Station-to-station night rates:

Where the station-to-station day initial rate is \$0.25 or less, station-to-station night rates are the same as station-to-station day rates.

(D) Toll rates for service to connecting company points:

The charge applicable to toll telephone service between any point on the lines of Delta Telephone and Telegraph Company, other than connecting points, and a point on the lines of a connecting company is the sum of the Delta Company's charges between the point on the Delta Company's lines and the connecting point, and the charges of the connecting company or companies effective between the point of connection with the Delta Company's lines and the point on the connecting company's lines.

TELEGRAPH SERVICE SCHEDULE No. C-1.

General Service.

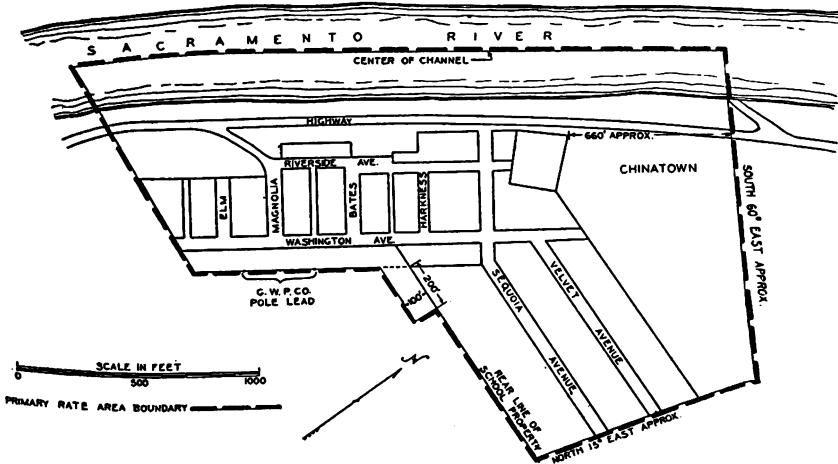
Applicable to telegraph service between Sacramento and points on the company's lines as listed below:

Rate.

Telegrams	First 10 words or less	Each additional word
Between Sacramento and		
Courtland -----	\$0 30	\$0 025
Isleton -----	30	025
Rio Vista -----	30	025
Walnut Grove -----	30	025
Day letters	50 words or less	Each additional 10 words or less
Between Sacramento and any point on company's lines -----	\$0 45	\$0 09
Night letters	50 words or less	Each additional 10 words or less
Between Sacramento and any point on company's lines -----	\$0 30	\$0 06

The charge applicable to telegraph messages between any point on the lines of connecting companies and a point on the lines of the Delta Telephone and Telegraph Company is the sum of the connecting company's or companies' rates between the distant point and Sacramento and the rates of the Delta Company applicable as shown above.

CALIFORNIA RAILROAD COMMISSION
MAP SHOWING
PRIMARY RATE AREA BOUNDARY
OF
COURTLAND EXCHANGE
DELTA TELEPHONE AND TELEGRAPH COMPANY



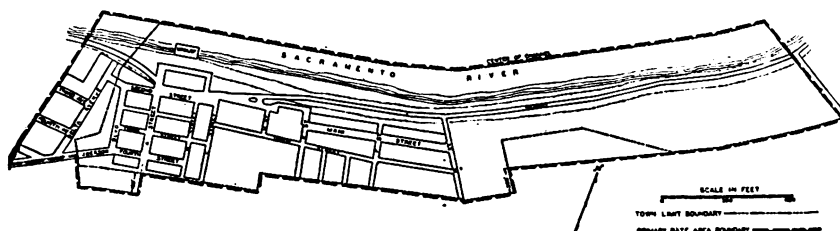
CALIFORNIA RAILROAD COMMISSION

MAP SHOWING

PRIMARY RATE AREA BOUNDARY
OF

ISLETON EXCHANGE

DELTA TELEPHONE AND TELEGRAPH COMPANY



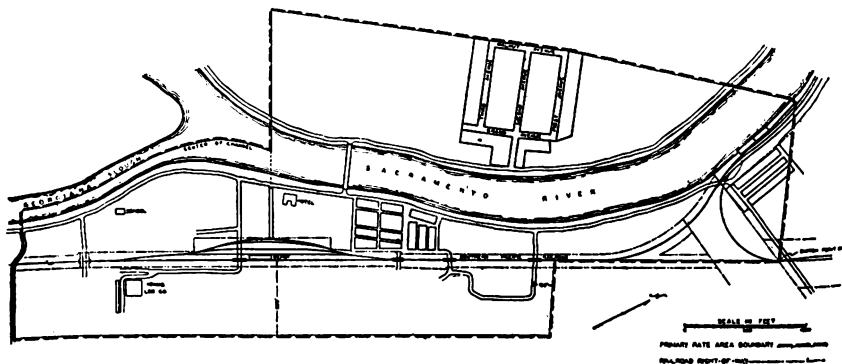
CALIFORNIA RAILROAD COMMISSION

MAP SHOWING

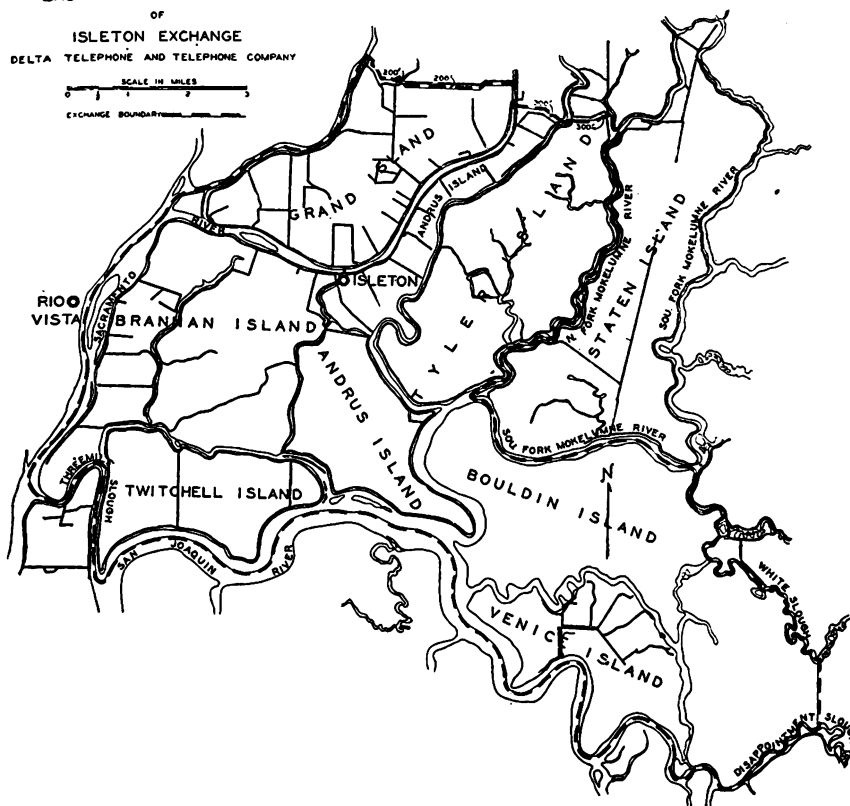
PRIMARY RATE AREA BOUNDARY
OF

WALNUT GROVE EXCHANGE

DELTA TELEPHONE AND TELEGRAPH COMPANY



CALIFORNIA RAILROAD COMMISSION
 MAP SHOWING
 EXCHANGE AREA BOUNDARY
 OF
 ISLETON EXCHANGE
 DELTA TELEPHONE AND TELEPHONE COMPANY



CALIFORNIA RAILROAD COMMISSION

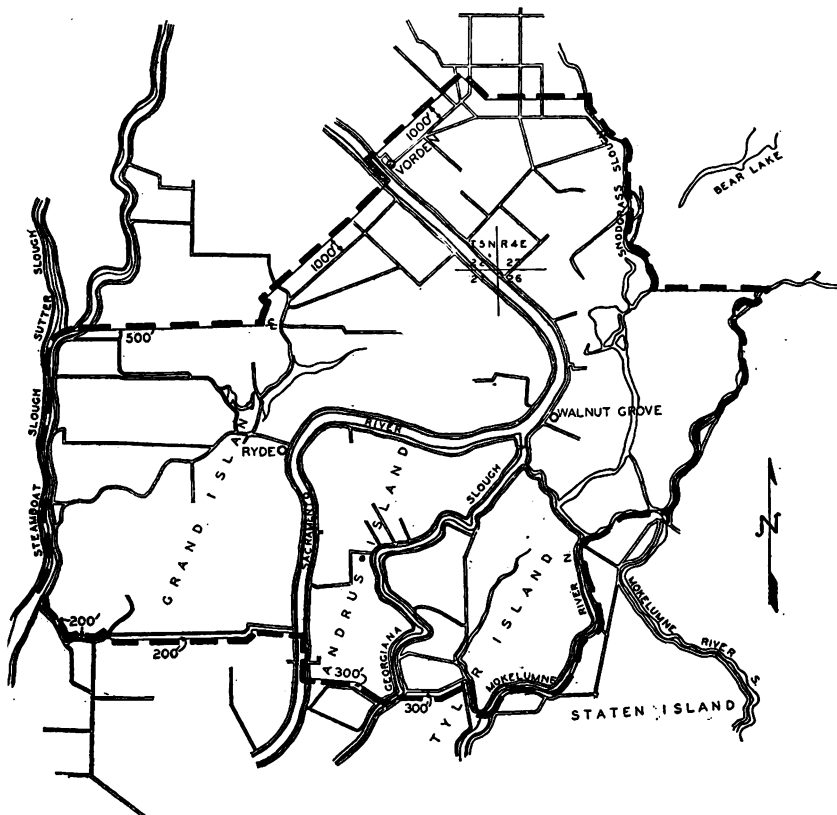
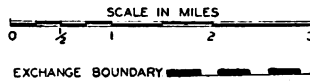
MAP SHOWING

EXCHANGE AREA BOUNDARY

OF

WALNUT GROVE EXCHANGE

DELTA TELEPHONE AND TELEGRAPH COMPANY



DECISION No. 18956.

IN THE MATTER OF J. E. JOHNSON, P. A. PESULA, B. H. GOFF AND E. J. ROGERS FOR AN ORDER AUTHORIZING AND EMPOWERING THEM TO ENGAGE IN THE BUSINESS OF SUPPLYING ELECTRICITY FOR LIGHT TO THE MERCHANTS AND RESIDENTS OF WEOTT, HUMBOLDT COUNTY, CALIFORNIA.

Application No. 13854.

Decided October 25, 1927.

CERTIFICATE—ELECTRIC UTILITY.—J. E. Johnson et al. authorized to engage in the business of supplying electricity for light in the town of Weott, Humboldt County.

J. J. Cairns, attorney for Applicants.

BY THE COMMISSION.

OPINION.

This is an application by J. E. Johnson, P. A. Pesula, B. H. Goff and E. J. Rogers for an order declaring that public convenience and necessity will require the exercise by them of the rights and privileges of franchise granted by the board of supervisors of the county of Humboldt.

A public hearing before Examiner Williams was held September 12, 1927, in the city of Eureka, at which time testimony was introduced and the matter submitted for decision. No one appeared in opposition to the granting of this application. A copy of the franchise was filed by applicants as their Exhibit No. 2.

The town of Weott is a village of approximately two hundred inhabitants, and testimony goes to show that it is not being supplied with electric service by any other utility, that the nearest other source of service is so far away as to make the cost of entry prohibitive, and that the residents of the town have petitioned applicants to undertake the conduct of a utility business for this purpose.

Applicants have, therefore, formed a copartnership, purchased and installed a suitable plant, consisting of a 20-horsepower semi-Diesel engine, a 15-kilowatt generator, and necessary distribution equipment, and are now prepared to render service as soon as permission is received.

There are immediate prospects of about forty consumers when service is established, and applicants declare that they are able to finance any extension of facilities which further developments may make necessary.

Applicants request that the exercise of those rights and privileges granted by the board of supervisors of Humboldt County, dated May 10, 1927, be restricted to an area within a radius of one-quarter of a mile of the present site of the post office of Weott.

Applicants have filed with this Commission a stipulation to the effect that they, their successors or assigns, will never claim before the Rail-

road Commission or any court or public body, any value for the afore-said franchise, which was granted without cost to applicants.

ORDER.

J. E. Johnson, P. A. Pesula, B. H. Goff and E. J. Rogers having applied to the Railroad Commission of the State of California for a certificate of public convenience and necessity for the exercise of certain rights and privileges granted by the board of supervisors of the county of Humboldt, May 10, 1927, a public hearing having been held, the matter having been submitted and now being ready for decision:

The Railroad Commission of the State of California hereby certifies and declares that public convenience and necessity require and will require the exercise by J. E. Johnson, P. A. Pesula, B. H. Goff and E. J. Rogers of those rights and privileges granted by the board of supervisors of the county of Humboldt, May 10, 1927, subject to the following condition:

Service by applicants shall be restricted to that area within a radius of one-quarter of a mile of the present site of the post office at Weott.

The authority herein granted shall become effective from and after the date of this order.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18957.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHT, PRIVILEGE AND FRANCHISE GRANTED TO APPLICANT BY ORDINANCE No. 382 OF THE BOARD OF SUPERVISORS OF THE COUNTY OF SAN JOAQUIN.

Application No. 14032.

Decided October 25, 1927.

CERTIFICATES—ELECTRIC UTILITY—CONSTRUCTION OF TRANSMISSION LINE.—Pacific Gas and Electric Company authorized to construct a gas transmission and distribution system between Stockton and Lodi and to exercise rights granted by franchise of the board of supervisors of San Joaquin County.

O. P. Cutten and R. W. Du Val, by *R. W. Du Val*, for Applicant.

BY THE COMMISSION.

OPINION.

Pacific Gas and Electric Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the exercise by it of the rights and privileges of franchise granted by the county of San Joaquin, and the construction

of a certain gas transmission and distribution system in San Joaquin County.

A public hearing was conducted by Examiner Handford at San Francisco on October 13, 1927, at which time testimony was received and the matter duly submitted for decision. No one appeared to oppose the granting of the application.

It appears that Pacific Gas and Electric Company has gas production and distribution facilities in the city of Lodi, and that Western States Gas and Electric Company has similar but more extensive facilities in the city of Stockton.

Witness for applicant testified that applicant proposes to build a six-inch high pressure gas transmission main between Lodi and Stockton at an estimated cost of \$89,391, and to install the necessary distribution facilities to serve ninety-six prospective consumers along and adjacent to said transmission main. This proposed transmission main will not only serve these prospective consumers but will make available for service within the city of Lodi an additional supply of gas which can be purchased from the Western States Gas and Electric Company at Stockton more economically than it can be manufactured by the applicant at Lodi.

Witness for applicant further testified that the company proposes to ultimately abandon the gas generating equipment located at Lodi and to then purchase all gas from the Western States Gas and Electric Company in view of economies which can be effected and which will react to the benefit of all consumers.

It is in connection with the above program and extensions which may later become necessary within San Joaquin County that a franchise has been secured.

Ordinance No. 382, as adopted July 18, 1927, by the board of supervisors of San Joaquin County, grants applicant a franchise to install and maintain gas facilities within San Joaquin County. This franchise, a copy of which is attached to the application, is for a term of fifty years and carries the usual provision for a tax of 2 per cent upon the gross revenue, such tax becoming effective five years from the date of grant.

No gas utility other than applicant and Western States Gas and Electric Company is serving gas within San Joaquin County and the only service now contemplated by another utility within that county is that of the Tracy Gas Company at Tracy.

Applicant has filed with this Commission a resolution of its board of directors to the effect that applicant, its successors or assigns, will never claim before the Railroad Commission, or any court or public body, any value for the above mentioned franchise in excess of the actual cost thereof, which cost is stated to be \$100.

ORDER.

Pacific Gas and Electric Company, a corporation, having applied to the Railroad Commission of the State of California for an order declaring that public convenience and necessity require and will require the exercise of rights and privileges heretofore granted to it by the county of San Joaquin under Ordinance No. 382, and the construction of a certain gas transmission and distribution system, a public hearing having been held, the matter having been duly submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require the exercise by Pacific Gas and Electric Company, a corporation, of the rights and privileges as contained in the franchise granted by Ordinance No. 382 of the board of supervisors of San Joaquin County, and the construction of a gas transmission and distribution system between Stockton and Lodi, provided that the Railroad Commission hereby reserves the right by appropriate proceedings and subsequent orders to revoke or limit the authority herein granted as regards territory not then served by Pacific Gas and Electric Company.

The effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18958.

IN THE MATTER OF THE APPLICATION OF FRANK H. WHITE AND FRED A. WHITE, COPARTNERS, AND WHITE TRUCK AND TRANSFER COMPANY, A CORPORATION, FOR PERMISSION TO ISSUE STOCK AND TRANSFER OPERATIVE RIGHTS.

Application No. 14040.

Decided October 25, 1927.

TRANSFER—OPERATIVE RIGHTS—SECURITIES.—Frank H. White and Fred A. White authorized to transfer automotive operative rights between Los Angeles and Los Angeles Harbor to White Truck and Transfer Company, a corporation, and the latter authorized to issue 500 shares of its capital stock of the aggregate par value of \$50,000, and to assume not exceeding \$31,842.64 of indebtedness in payment for operative rights and property equipment.

EVIDENCE—COMPETENCY—BALANCE SHEET.—A balance sheet as of thirty-three months prior to the filing of a petition to issue stock and transfer operative rights is of too remote a date to be considered in such proceeding.

VALUATION—PARTICULAR INTANGIBLE PROPERTY—OPERATIVE RIGHTS CERTIFICATES—JURISDICTION, POWERS AND DUTIES OF COMMISSION.—Operative rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. They are permissive and extend to the holder a full or partial monopoly of a class of business over a particular route, which monopoly may be changed or destroyed at any time

by the state, which is not in any respect limited to the number of rights which may be given.

Harrah, Louis and Quillian, by *I. C. Louis*, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled matter the Railroad Commission is asked to make an order authorizing Frank H. White and Fred A. White to transfer operative rights to White Truck and Transfer Company, a corporation, and authorizing White Truck and Transfer Company to issue 500 shares of its capital stock of the aggregate par value of \$50,000.

A public hearing on the application was held before Examiner Frankhauser on September 23, 1927, at which time the application was amended so as to include a request on the part of the corporation for approval of contracts for the purchase of equipment.

The record shows that Frank H. White and Fred A. White, as copartners, have been engaged in the business, under the firm name and style of White Truck and Transfer Company, of operating an automotive truck service as common carriers of property for compensation between the city of Los Angeles and steamship wharves and docks located at Los Angeles harbor; namely, at Wilmington and San Pedro. The operative rights permitting this service were granted by the Railroad Commission by its Decision No. 14404, dated December 27, 1924 (Vol. 25, Opinions and Orders of the Railroad Commission of California, page 679).

It appears that the copartners have concluded that the business could be operated better by a corporation and for that reason have caused the organization of White Truck and Transfer Company, a corporation, applicant herein, and propose to transfer to it the operative rights hereinabove referred to and certain physical property and equipment used in their operations. The corporation proposes to issue 497 shares of its stock, of the par value of \$49,700, in payment for the rights and property, subject to outstanding liabilities, and, in addition, to issue three shares to its directors, making a total proposed issue, at this time, of \$50,000 par value.

The property and equipment to be transferred to the corporation include twenty-two trucks and eleven trailers, as set forth in detail in the application; truck and trailer equipment consisting of hand trucks, jacks, tarpaulins, etc., shop equipment, service station equipment and office furniture and fixtures.

Applicants attached to their petition a balance sheet as of December 31, 1925. This balance sheet is of too remote a date to be considered in this proceeding. The Commission has been furnished with a balance sheet as of August 31, 1927. It shows assets and liabilities as follows:

*Assets.***Property and equipment (depreciated value) :**

Trucks -----	\$43,678 63	
Trailers -----	15,923 88	
Truck and trailer equipment -----	1,435 57	
Auto -----	290 03	
Shop equipment -----	586 03	
Office furniture and fixtures -----	1,006 08	
Service station -----	932 08	
		<hr/>
		\$63,852 30
Cash -----		665 56
Notes receivable -----		2,676 13
Accounts receivable -----		17,978 72
Inventory -----		145 02
Prepaid expenses -----		1,239 66
Franchise and good will -----		11,539 30
		<hr/>
		\$98,096 69

Liabilities.

Capital stock -----	\$50,000 00	
Notes payable -----	6,275 00	
Trade acceptance -----	445 00	
Accounts payable -----	11,365 53	
Unpaid balance on trucks and trailers -----	9,273 22	
Accruals:		
Insurance -----	\$627 21	
Payroll -----	1,627 17	
Taxes -----	2,229 51	
		<hr/>
		4,483 89
Undivided profits -----		1,260 79
Profit and loss account -----		14,993 26
		<hr/>
		\$98,096 69

The assets include no allowances for the cost of obtaining operative rights, organization expenses or other intangible items.

We believe this application should be granted, subject to the conditions appearing in the order following this opinion. In authorizing the transfer the purchaser is hereby placed on notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not in any respect limited to the number of rights which may be given. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

ORDER.

Application having been made to the Railroad Commission for authority to transfer operative rights and to issue stock, a public hearing having been held before Examiner Fankhauser and the Railroad

Commission being of the opinion that the application should be granted, as herein provided, and that the issue of the \$50,000 of stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Frank H. White and Fred A. White, copartners doing business under the firm name and style of White Truck and Transfer Company, be and they are hereby authorized to transfer to White Truck and Transfer Company, a corporation, the operative rights acquired by them pursuant to Decision No. 14404, dated December 27, 1924, and referred to in the foregoing opinion.

It is hereby further ordered, that White Truck and Transfer Company, a corporation, be and it hereby is authorized to issue 497 shares of its capital stock, of the aggregate par value of \$49,700 and assume not exceeding \$31,842.64 of indebtedness in payment for the operative rights and the property and equipment, referred to in the foregoing opinion, to be acquired from Frank H. White and Fred A. White and to issue and sell, at par for cash, three shares of its capital stock, of the aggregate par value of \$300, to its directors, and to use the proceeds to acquire property or provide working capital. The company may issue notes or other evidences of indebtedness payable at not more than two years after date of this order to refund all or part of the indebtedness which it is hereby authorized to assume. If any note or evidence of indebtedness is issued for less than two years, the same may be renewed from time to time, provided that the term of the original note or evidence of indebtedness and all renewals thereof shall not exceed two years after the date of this order.

The authority herein granted is subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2. Applicants Frank H. White and Fred A. White shall immediately unite with applicant White Truck and Transfer Company, a corporation, in common supplement to the tariffs on file with the Commission, applicants Frank H. White and Fred A. White, on the one hand, withdrawing, and applicant White Truck and Transfer Company, on the other hand, accepting and establishing such tariffs and all effective supplements thereto.

3. Applicants Frank H. White and Fred A. White shall immediately withdraw time schedules filed in their names with the Railroad Commission and applicant White Truck and Transfer Company shall immediately file, in duplicate, in its own name, time schedules covering service heretofore given by applicants Frank H. White and Fred A.

White, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Frank H. White and Fred A. White, or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicant White Truck and Transfer Company, unless such vehicle is owned by said applicant or is leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. White Truck and Transfer Company shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

7. The authority herein granted will become effective when White Truck and Transfer Company has paid the fee prescribed by section 6 of the Auto Stage and Truck Transportation Act, and section 57 of the Public Utilities Act, which fee is \$32.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18959.

IN THE MATTER OF THE APPLICATION OF NEEDLES GAS AND ELECTRIC COMPANY, FOR AUTHORITY TO ISSUE ADDITIONAL FIRST MORTGAGE BONDS IN THE AMOUNT OF TWENTY-FIVE THOUSAND DOLLARS AND TO SELL OR HYPOTHECATE THE SAME.

Application No. 14073.

Decided October 25, 1927.

SECURITIES—BONDS.—Needles Gas and Electric Company authorized to issue and sell, at not less than 96 per cent of par value, plus accrued interest, \$25,000 of its first mortgage bonds to finance additions and betterments.

Le Roy M. Edwards, for Applicant.

BY THE COMMISSION.

OPINION.

Needles Gas and Electric Company asks permission to issue and sell, at not less than 96 per cent of face value, plus accrued interest, \$25,000 of its first mortgage 7 per cent bonds, due 1944, for the purpose of paying indebtedness, reimbursing its treasury and of financing the cost of additions and betterments to its plants and properties. It further asks

permission, in the event it is unable to sell its bonds, to hypothecate them, upon the basis of 75 per cent of their face value, to secure the payment of short-term notes.

Applicant is engaged in the business of manufacturing and selling gas and electricity and furnishing telephone service in the city of Needles. In its Exhibit "A" attached to the petition, it reports its assets and liabilities, as of June 30, 1927, as follows:

<i>Assets.</i>	
Fixed capital -----	\$330,493 63
Sinking fund -----	162 41
Cash -----	567 50
Accounts receivable -----	13,227 76
Inventories -----	6,917 48
Unamortized debt discount -----	11,941 64
Prepayments -----	2,193 97
Total assets -----	\$365,504 39
<i>Liabilities.</i>	
Capital stock (common) -----	\$100,000 00
Funded debt -----	153,500 00
Notes payable -----	6,500 00
Accounts payable -----	8,168 93
Accruals -----	6,464 24
Consumers' deposits -----	3,610 56
Reserves -----	51,455 61
Surplus -----	35,805 05
Total liabilities -----	\$365,504 39

The bonds proposed to be issued are part of an authorized amount of \$250,000 of first mortgage 7 per cent bonds, due 1944, secured by mortgage or deed of trust authorized to be executed by the Railroad Commission in its Decision No. 10472, dated May 17, 1922. Heretofore the Commission has authorized the issue and sale of \$159,000 of such bonds, of which, however, \$5,500 were reacquired after issue, through the operation of the sinking fund, and canceled, leaving \$153,500 now outstanding.

In support of the request to issue additional bonds, applicant alleges that up to June 30, 1927, it had expended, for capital purposes, the sum of \$18,638.33, against which no bonds have been issued, as shown in detail in Exhibit "B," and it estimates, at this time, future expenditures of \$13,500, consisting of the following:

Soft water circulating system with softener, surface cooler, spray pond, storage tank, pumps, etc., for engine jackets and for boiler feed water--	\$3,500 00
Further extension of fireproof power house building-----	4,000 00
Sewer and drainage system-----	1,500 00
Automatic switch equipment for electric switchboard in power house----	1,000 00
Line to new city pump-----	1,000 00
Transformers for new city pump-----	1,100 00
Gas calorimeter, together with testing equipment and housing-----	1,000 00
Office furniture and fixtures-----	400 00
Total -----	\$13,500 00

The reported uncapitalized expenditures of \$18,638.33, up to June 30, 1927, and the estimated expenditures of \$13,500 aggregate \$32,138.33. It is against, or for the purpose of paying in part for, such expenditures that applicant asks permission to issue \$25,000 of bonds. It reports that the proceeds will be used in part to finance the estimated expenditure of \$13,500, in part to pay the outstanding notes of \$6,500, and in part to reimburse its treasury.

ORDER.

Needles Gas and Electric Company having applied to the Railroad Commission for permission to issue and sell, or hypothecate, bonds, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale, or hypothecation, is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Needles Gas and Electric Company be and it hereby is authorized to issue and sell, on or before June 30, 1928, at not less than 96 per cent of face value plus accrued interest, \$25,000 of its first mortgage bonds, and to use the proceeds, other than accrued interest which may be used for general corporate purposes, to reimburse its treasury, to pay outstanding notes of \$6,500, or notes to be secured by the deposit of the bonds herein authorized, and to finance, in part, such cost of the additions and betterments to its plants and properties, referred to in the foregoing opinion, as is properly chargeable to fixed capital accounts under the uniform system of accounts prescribed by the Commission.

It is hereby further ordered, that Needles Gas and Electric Company be and it is hereby authorized, pending the sale of the \$25,000 of bonds herein authorized to be issued, to deposit such bonds, upon the basis of at least a loan of seventy-five dollars for every one hundred dollars of bonds deposited, as collateral security for the payment of notes to be issued for a period of one year or less to represent said loan, provided that the proceeds obtained through the issue of such notes be used to refund the outstanding indebtedness of \$6,500 and to finance in part such cost of the additions and betterments to its plants and properties, referred to in the foregoing opinion, as is properly chargeable to fixed capital accounts under the uniform system of accounts prescribed or adopted by this Commission.

The authority herein granted is subject to the following conditions:

1. Applicant shall keep such record of the issue and sale, or deposit, of the bonds herein authorized, and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month,

a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

2. The authority herein granted will become effective when applicant has paid the minimum fee prescribed by section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18960.

IN THE MATTER OF THE APPLICATION OF SOUTH COAST STEAMSHIP COMPANY, A CORPORATION, FOR ORDER AUTHORIZING ISSUE OF CERTAIN SHARES OF ITS STOCK.

Application No. 14098.

Decided October 25, 1927.

SECURITIES—STOCK.—South Coast Steamship Company authorized to issue, at not less than par, \$2,000 of its common capital stock to make initial payment under a charter party.

SECURITY ISSUES—NATURE AND KIND—EVIDENCE OF INDEBTEDNESS—CONTRACT.—The execution of a charter party, which is an evidence of indebtedness, when some of such indebtedness is payable at more than one year after date, should be authorized by the Commission.

Goldman and Altman, by *R. S. Goldman*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application South Coast Steamship Company, a corporation, applies for permission to issue and sell, at par for cash, 30 shares of its capital stock of the aggregate par value of \$3,000, for the purpose of providing the initial payment under a charter party and of paying operating expenses.

A public hearing in the matter was held before Examiner Fankhauser in San Francisco on October 13, 1927, at which time applicant withdrew its request to issue \$1,000 of stock to pay operating expenses.

The record shows that since February, 1927, R. W. Myers has been engaged, under the firm name and style of South Coast Steamship Company, in transporting freight by vessel between San Francisco and Monterey. The tariff on file with the Commission is entitled as follows:

LOCAL FREIGHT TARIFF No. 1

Naming Class and Commodity Rates

between

San Francisco, Alameda, Oakland and
Monterey, California,

also
Commodity Rates
between
San Francisco, Alameda, Oakland and
Santa Cruz, California,
and
Terminal Charges, Privileges and Allowances.

It appears that it has been decided that the business can be conducted in a better fashion by a corporation and that there has been organized South Coast Steamship Company, a corporation, applicant herein, for the express purpose of taking over and operating the business. It is of record that R. J. Walsh has agreed to purchase the stock which applicant asks permission to issue. The evidence further shows that the rates now charged by South Coast Steamship Company will be continued in effect by applicant.

To carry on its business applicant has made arrangements to charter the steamship *San Antonio* from San Francisco Iron and Metal Company, under the terms of a charter party (Exhibit 1) which provides, among other things, for the payment of \$2,000 upon execution of the agreement and of \$500 a month thereafter until the total sum of \$11,000 has been paid, at which time title to the vessel will be transferred to applicant. The *San Antonio* is a two-deck wooden steam schooner; its length is 158.5 feet, breadth 34 feet, depth 19.4 feet, gross tonnage 785 tons, net tonnage 521 tons, and dead weight cargo capacity 650 tons. The testimony indicates that the vessel is in good operating condition. The charter party, we believe, is an evidence of indebtedness, some of which indebtedness is payable at more than one year after date. Its execution should therefore be authorized by the Commission.

The corporation proposes to issue and sell \$2,000 of its stock at par and to use the proceeds to make the initial payment under the charter party.

ORDER.

South Coast Steamship Company, in its application as amended, having requested the Railroad Commission to authorize it to issue and sell \$2,000 of its common capital stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purpose specified herein and that the expenditure for such purpose is not, in whole or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that South Coast Steamship Company, a corporation, be and it hereby is authorized to issue and sell on or before December 31, 1927, for cash, at not less than par, \$2,000 of its common capital stock and to use the proceeds for the purpose of making the

initial payment of \$2,000 under the charter party referred to in the foregoing opinion, which charter party applicant is hereby authorized to execute.

It is hereby further ordered, that the authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$25, and further, that applicant shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the application in so far as it involves a request to issue \$1,000 of stock to pay operating expenses be and it hereby is dismissed.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18961.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL TWO MILLION FIVE HUNDRED THOUSAND DOLLARS PAR VALUE OF COMMON STOCK.

Application No. 14111.

Decided October 25, 1927.

SECURITIES—STOCK.—Great Western Power Company of California authorized to issue and sell at not less than par \$2,500,000 of its common capital stock for purpose of reimbursing treasury and to finance in part the expenditure of \$7,300,678.39 on capital account.

SECURITY ISSUES—SALE PRICE—IN GENERAL.—While the Commission required that stock, if sold, should be sold for not less than par for cash, it was provided that each stock certificate should contain a statement that the authorization "is permissive only and is not to be deemed equivalent to a determination that said stock is worth the par value thereof."

Guy C. Earl and Chaffee E. Hall, for Applicant.

BY THE COMMISSION.

OPINION.

Great Western Power Company of California asks permission to issue and sell, for cash at par, 25,000 shares of its common capital stock, of the aggregate par value of \$2,500,000 for the purpose of reimbursing its treasury on account of expenditures made for additions and betterments.

It appears that Great Western Power Company of California has an authorized capital stock of \$60,000,000, divided equally into common and preferred, the preferred consisting of \$15,000,000 of 7 per cent preferred stock and \$15,000,000 of Series "A" 6 per cent preferred stock. Of the authorized amounts, the company reports outstanding on

August 31, 1927, \$27,500,000 of the common and \$17,179,600 of the preferred, a total of \$44,679,600. All of the common stock is reported held by Western Power Corporation and it is said that the \$2,500,000 of common stock, now proposed to be issued, will be purchased by that company.

In support of the request to issue the remaining authorized common stock the company reports that up to August 31, 1927, it had expended for capital purposes the sum of \$7,300,678.39, for which it had not been reimbursed with proceeds obtained through the issue of securities. This was determined as follows:

Purchase of capital stock of Napa Valley Electric Company-----	\$100,000 00
Balance of capital expenditures for which the treasury was not reim- bursed at December 31, 1924, as shown by Exhibit "A" in Applica- tion No. 10785 -----	502,914 17
Capital expenditures for the year 1925, as shown in Exhibit "C"----	4,654,863 39
Capital expenditures for the year 1926, as shown in Exhibit "D"----	6,184,459 13
Capital expenditures for the period January 1, 1927, to August 31, 1927, as shown in Exhibit "E" -----	4,175,812 92
Total -----	\$15,618,049 61
From which there is deducted:	
Balance of proceeds of sale of preferred stock under Decision 10605, Application 7925 -----	\$33 00
Proceeds received or to be received from preferred stock sold:	
Under Decision No. 14541, Application No. 10785-----	1,936,344 50
Under Decision No. 15124, Application No. 11110-----	1,632,022 25
Under Decision No. 15384, Application No. 11627-----	1,983,961 47
Under Decision No. 16091, Application No. 12518-----	1,820,000 00
Under Decision No. 17707, Application No. 13312-----	945,000 00
Total -----	\$8,317,371 22
Excess of expenditures -----	\$7,300,678 39

In addition to the items set forth in the foregoing tabulations the company alleges that it has expended for purposes properly chargeable to capital account the further sum of \$981,723.23, as shown in detail in paragraph III of the application. It does not, however, ask permission to use the proceeds from the sale of the stock herein applied for to finance these expenditures, and it therefore does not seem necessary at this time for us to approve the expenditures of \$981,723.23. The order herein will authorize the issue of \$2,500,000 of common stock for the purpose of reimbursing the treasury and of financing in part the reported expenditures of \$7,300,678.39. Such authority should not be construed as an approval of the expenditures of \$981,723.23 or of those of \$7,300,678.39 in excess of \$2,500,000.

The authority herein granted to issue stock is permissive only. While the order will require that the stock, if sold, shall be sold for not less than par for cash, we have made no determination that the stock is worth the par value thereof. Each stock certificate issued under the

authority granted in the following order or in transfers thereof shall contain in the body of the certificate the following language:

The stock represented by this certificate has been issued pursuant to Decision Number.....rendered on October....., 1927, by the Railroad Commission of the State of California in Application Number..... In said Decision said Railroad Commission authorizes the issuance and sale by said Great Western Power Company of California of Twenty-five Thousand shares of common stock at par for cash, but states that said authorization is permissive only and is not to be deemed equivalent to a determination that said stock is worth the par value thereof.

Great Western Power Company of California will be expected to adopt by resolution of its board of directors a form of common stock certificate containing the foregoing language, which form of certificate shall hereafter be used for the issue and transfers of its common capital stock issued under the order herein.

ORDER.

Great Western Power Company of California having applied to the Railroad Commission for permission to issue and sell \$2,500,000 of its common capital stock, and the Railroad Commission being of the opinion that this is a matter in which a public hearing is not necessary and that the money, property or labor to be procured or paid for through such issue and sale is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that Great Western Power Company of California be and it hereby is authorized to issue and sell, on or before March 1, 1928, for cash at not less than par, 25,000 shares of its common capital stock of the aggregate par value of \$2,500,000 for the purpose of reimbursing its treasury and of financing in part the expenditure of \$7,300,678.39 referred to in the foregoing opinion, provided that only such expenditures as are properly chargeable to fixed capital accounts under the uniform classification of accounts prescribed by this Commission be financed with such proceeds, and provided further, that the authority herein granted will not become effective until the Railroad Commission has entered its supplemental order specifying that said company has adopted a form of certificate for such common capital stock as directed by the opinion herein.

It is hereby further ordered, that applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18962.

IN THE MATTER OF THE APPLICATION OF THE CALIFORNIA OREGON POWER COMPANY FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, AUTHORIZING THE ISSUANCE AND SALE OF STOCK AND DEBENTURES.

Application No. 14113.

Decided October 25, 1927.

SECURITIES—STOCK—DEBENTURES.—California Oregon Power Company authorized to issue and sell, at not less than \$96 per share, 15,000 shares of its 6 per cent preferred stock, series of 1927, of the aggregate par value of \$1,500,000, and \$4,000,000 of its fifteen year 5½ per cent debentures at not less than 94½ per cent of face value, plus accrued interest, and to use proceeds to pay indebtedness and finance additions and betterments.

VALUATION—NONPHYSICAL ELEMENTS AFFECTING VALUE—OVERHEAD EXPENSE—IN GENERAL.

SECURITY ISSUES—IN GENERAL.—Authorization to issue stock and debentures to pay for specified properties should not be construed as a finding of the cost or value of the properties for the purpose of fixing rates, and failure of the Commission to call attention in its order to overhead and supervision construction costs does not mean that they are necessarily approved.

SECURITY ISSUES—SALE PRICE—IN GENERAL.—Though debentures will not be a lien on property, it was held that applicant should receive at least 94½ and accrued interest therefor, the record not warranting their sale at a lower price.

SECURITY ISSUES—INTEREST.—Interest during construction calculated at 7 per cent on moneys advanced was held unjustified under existing financial conditions, in authorizing the issuance of securities.

Brobeck, Phleger and Harrison, by H. H. Phleger, for Applicant.

BY THE COMMISSION.

OPINION.

The California Oregon Power Company has applied to the Railroad Commission for permission to issue and sell, at not less than \$91 per share, net, 15,000 shares of its 6 per cent preferred stock, series of 1927, of the aggregate par value of \$1,500,000, and, at not less than 93 per cent of face value plus accrued interest, \$4,000,000 of fifteen year 5½ per cent debentures for the purpose of paying indebtedness and of financing the cost of additions and betterments and for other corporate purposes.

In Exhibit "B" applicant reports its outstanding capital stock as of August 31, 1927, at \$9,730,000, consisting of \$4,441,100 of common stock, \$4,332,400 of 7 per cent preferred stock and \$956,500 of 6 per cent preferred stock. In addition it reports preferred stock subscriptions of \$256,400. It reports its bonded debt at \$10,523,300 consisting of the following:

Rogue River Electric Company first mortgage 5s due 1937-----	\$547,000 00
General and refunding bonds:	
Series "B" 6s, due 1942-----	\$4,465,300
Series "C" 5½s, due 1955-----	2,511,000
	6,976,300 00
General and refunding bonds:	
Series "A" 5½s, due 1946-----	3,000,000 00
Total -----	\$10,523,300 00
Current liabilities are reported at-----	\$3,734,114 45

It now appears in this application, that recently the company has amended its articles of incorporation, increasing and reclassifying its authorized capital stock. As now amended they provide for an authorized capital stock of \$30,000,000, divided into \$15,000,000 of common stock, \$4,420,000 of 7 per cent preferred stock, \$1,000,000 of 6 per cent preferred stock and \$9,580,000 of 6 per cent preferred stock, series of 1927. It appears that the three classes of preferred stock bear cumulative dividends, at the rates indicated, without preference among the three. The preferred stock, series of 1927, however, is redeemable at 110 per cent of par value, while the other two classes are not redeemable. Heretofore the Commission has approved the issue of all of the authorized 7 per cent preferred stock and 6 per cent preferred stock, although all of such stocks have not yet been issued. The preferred stock, series of 1927, is a new class, of which the \$1,500,000 now proposed to be issued is a part.

The debentures proposed to be issued also constitute a new class of security. These debentures will be dated October 1, 1927, bear interest at rate of $5\frac{1}{2}$ per cent per annum, mature October 1, 1942, and be subject to redemption at any time on thirty days notice at a premium of $2\frac{1}{2}$ per cent, if redeemed on or before October 1, 1930; 2 per cent if redeemed after October 1, 1920, and on or before October 1, 1933; $1\frac{1}{2}$ per cent, if redeemed after October 1, 1933, and on or before October 1, 1936; 1 per cent, if redeemed after October 1, 1936, and on or before October 1, 1939; and one-half of one per cent if redeemed after October 1, 1939, and on or before October 1, 1941, with no premium if redeemed thereafter. The company has not yet filed a copy of the agreement under which debentures will be issued. Though the debentures will not be a lien on property, the record herein does not warrant their sale at a price so low as 93 and accrued interest. We believe that the company should receive at least $94\frac{1}{2}$ and accrued interest for the debentures.

In making the present application the company reports, in its Exhibit No. 1, its capital expenditures already made during 1927 and estimated for the balance of the year, including, however, expenditures on its Prospect hydro-electric plant and its transmission line from Prospect to Copco which will be completed in the early part of 1928, at \$5,300,000, consisting of the following:

Prospect hydro-electric plant.....	\$3,500,000 00
Transmission line	800,000 00
Miscellaneous additions and betterments, line, extensions, etc....	1,000,000 00
Total	\$5,300,000 00

It appears that up to September 1, 1927, the company had actually expended for its construction work the sum of \$4,120,628.10, as shown

in detail in Exhibit No. 4. It alleges that these expenditures have not been permanently financed but have been made, almost entirely, with moneys advanced by Standard Gas and Electric Company, the testimony in this connection showing that at present applicant is indebted to Standard Gas and Electric Company, on open account, in the amount of approximately \$4,000,000. Applicant proposes to use the proceeds from its stock and debentures to liquidate its indebtedness due Standard Gas and Electric Company and to meet, in part, the remaining estimated capital expenditures.

It is of record that the construction expenditures include interest during construction calculated at the rate of 7 per cent per annum. This charge, we feel, is unwarranted under existing financial conditions. While it may be to the advantage of Standard Gas and Electric Company, which has been advancing moneys to applicant for construction purposes, to charge 7 per cent interest on money advanced, such payment by applicant is, we believe, unjustified.

Our failure to call attention to some of the other overhead and supervision construction costs does not mean that we necessarily approve the same. While the order herein will authorize the issue of stock and debentures to pay for the properties mentioned, such authority should not be construed as a finding of the cost or the value of the properties for the purpose of fixing rates.

Applicant has not yet filed a copy of the agreement defining the terms and conditions under which the debentures will be issued. Some of the terms of the debentures have been submitted. If the debenture agreement, as finally submitted, in any way modifies the terms of the debentures, or contains conditions of an unusual nature, we may modify the authority herein granted to issue debentures.

ORDER.

The California Oregon Power Company having applied to the Railroad Commission for permission to issue stock and debentures, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of such stock and debentures is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income;

It is hereby ordered, that The California Oregon Power Company be and it hereby is authorized to issue and sell, on or before June 30, 1928, at not less than \$96 per share, 15,000 shares of its 6 per cent preferred stock, series of 1927, of the aggregate par value of \$1,500,000, and \$4,000,000 of its fifteen year, 5½ per cent debentures at not less than 94½ per cent of face value plus accrued interest.

It is hereby further ordered, that The California Oregon Power Company be and it hereby is authorized to use, if necessary, an amount not exceeding five dollars per share of stock sold to pay the expenses incident to the sale of the stock, and to use the remainder of the proceeds from the sale of the stock, and such portion of said five dollars not needed for said purposes and the proceeds from the debentures, other than accrued interest, to pay indebtedness due Standard Gas and Electric Company and to finance, in part, such cost of the additions, betterments and extensions referred to in Exhibit No. 1, as is reasonably chargeable to fixed capital account. The accrued interest may be used for general corporate purposes.

It is hereby further ordered, that The California Oregon Power Company shall keep such record of the issue and sale of the stock and debentures herein authorized, and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

It is hereby further ordered, that the authority herein granted to issue stock shall become effective upon the date hereof, but that the authority herein granted to issue debentures shall become effective only when applicant has filed with the Commission, in satisfactory form, a copy of the agreement defining the terms and conditions under which the debentures will be issued and has received a supplemental order authorizing its execution and when it has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$2,500.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18963.

IN THE MATTER OF THE APPLICATION OF EUCLID AVENUE WATER COMPANY FOR PERMISSION TO RENEW A NOTE HELD BY THE PACIFIC SOUTHWEST TRUST AND SAVINGS BANK OF PASADENA.

Application No. 14140.

Decided October 25, 1927.

SECURITIES—RENEWAL NOTE.—Euclid Avenue Water Company authorized to renew its unsecured note for \$4,000.

Theodore F. Taylor, for Applicant.

BY THE COMMISSION.

ORDER.

Euclid Avenue Water Company having asked permission to issue a \$4,000 note to renew the \$4,000 note which it issued pursuant to the authority granted by the Commission's Decision No. 17612, dated

November 12, 1926, in Application No. 13276 (Vol. 28, Opinions and Orders of the Railroad Commission of California, page 821) and the Commission having considered the request of applicant and being of the opinion that this is a matter in which a public hearing is not necessary and that the money, property or labor to be procured or paid for through the issue of said note is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income and that applicant's request should be granted as herein provided; therefore,

It is hereby ordered, as follows:

1. Euclid Avenue Water Company may issue its unsecured promissory note in the principal amount of not exceeding \$4,000 payable on or before one year after date with interest at not exceeding 7 per cent per annum, the proceeds of said note to be used to pay or refund the \$4,000 note issued pursuant to said Decision No. 17612, dated November 12, 1926. If applicant issues a note for less than one year, it may be renew the same provided that the term of the original note and the term of any renewal note or notes does not extend beyond one year after the date of the note herein authorized to be issued.

2. Euclid Avenue water Company shall file with the Railroad Commission a copy of each and every note issued under the authority herein granted.

Dated at San Francisco, California, this twenty-fifth day of October, 1927.

DECISION No. 18974.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, A CALIFORNIA CORPORATION, FOR AN ORDER AUTHORIZING IT TO SELL, AND OF SOUTHERN CALIFORNIA GAS COMPANY, A CALIFORNIA CORPORATION, FOR AN ORDER AUTHORIZING IT TO BUY, ALL OF THE PROPERTY OF SAID MIDWAY GAS COMPANY; OF SAID SOUTHERN CALIFORNIA GAS COMPANY FOR AN ORDER AUTHORIZING IT TO ISSUE BONDS AND APPROVING THE FORM OF THE MORTGAGE (TO BE EXECUTED BY BOTH SOUTHERN CALIFORNIA GAS COMPANY AND MIDWAY GAS COMPANY) SECURING THE SAME; AND OF SAID SOUTHERN CALIFORNIA GAS COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISE RIGHTS.

Application No. 13898.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, TO BUY ALL OF THE CAPITAL STOCK AND ALL THE PROPERTIES OF CENTRAL COUNTIES GAS COMPANY AND OF CENTRAL COUNTIES GAS COMPANY TO SELL ALL OF ITS PROPERTIES (LOCATED IN THE CITY OF LINDSAY, COUNTY OF TULARE; CITY OF TULARE, COUNTY OF TULARE; CITY OF EXETER, COUNTY OF TULARE; CITY OF PORTERVILLE, COUNTY OF TULARE; CITY OF VISALIA, COUNTY OF TULARE, AND IN THE COUNTY OF

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TULARE); FOR AUTHORITY FOR MIDWAY GAS COMPANY TO ISSUE AND SELL SHORT TERM NOTES IN PAYMENT THEREFOR; AND OF MIDWAY GAS COMPANY FOR CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISE RIGHTS GRANTED BY SAID CITIES IN SAID COUNTY.

Application No. 13972.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, TO BUY ALL OF THE CAPITAL STOCK AND ALL OF THE PROPERTIES OF HANFORD GAS AND POWER COMPANY AND OF HANFORD GAS AND POWER COMPANY TO SELL ALL OF ITS PROPERTIES LOCATED IN THE CITY OF HANFORD; FOR AUTHORITY FOR MIDWAY GAS COMPANY TO ISSUE AND SELL SHORT TERM NOTES IN PAYMENT THEREFOR; AND OF MIDWAY GAS COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE FRANCHISE RIGHTS IN SAID CITY OF HANFORD.

Application No. 13973.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, TO BUY ALL OF THE CAPITAL STOCK AND ALL OF THE PROPERTIES OF RIVERBEND GAS AND WATER COMPANY AND OF RIVERBEND GAS AND WATER COMPANY TO SELL ALL OF ITS PROPERTIES (LOCATED IN THE CITY OF DINUBA, COUNTY OF TULARE; CITY OF KINGSBURG, COUNTY OF FRESNO; CITY OF SANGER, COUNTY OF FRESNO; CITY OF REEDLEY, COUNTY OF FRESNO; AND IN THE COUNTIES OF FRESNO AND TULARE); FOR MIDWAY GAS COMPANY TO ISSUE AND SELL SHORT TERM NOTES AS PAYMENT THEREFOR; AND OF MIDWAY GAS COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISES GRANTED BY SAID CITIES AND COUNTIES.

Application No. 13974.

IN THE MATTER OF THE APPLICATION OF MIDWAY GAS COMPANY, TO BUY ALL OF THE PROPERTIES OF VALLEY NATURAL GAS COMPANY AND OF VALLEY NATURAL GAS COMPANY TO SELL ALL OF ITS PROPERTIES LOCATED IN THE COUNTY OF KERN; FOR AUTHORITY FOR MIDWAY GAS COMPANY TO ISSUE AND SELL SHORT TERM NOTES IN PAYMENT FOR SAID PROPERTIES; AND OF MIDWAY GAS COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE CERTAIN FRANCHISE RIGHTS IN SAID COUNTY OF KERN.

Application No. 13975.

Decided October 28, 1927.

MORTGAGES—MODIFICATION OF—SECURITIES.—Midway Gas Company authorized to make minor changes in and execute mortgages authorized by Decision No. 18918 and to assume indebtedness.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Good cause appearing:

It is hereby ordered, that paragraph five of the order in Decision No. 18918 dated October 11, 1927 reading:

Midway Gas Company may purchase and operate the aforementioned properties and execute a trust indenture substantially in the same form as the trust indenture filed in this proceeding on September 30th, provided that the authority herein granted

to execute said indenture is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said trust indenture as to such other legal requirements to which said trust indenture may be subject,

be and the same is hereby amended so as to read:

Midway Gas Company may purchase and operate the aforementioned properties and execute a trust indenture substantially in the same form as the trust indenture filed in this proceeding on October 21st, provided that the authority herein granted to execute said indenture is for the purpose of this proceeding only, and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said trust indenture as to such other legal requirements to which said trust indenture may be subject.

It is hereby further ordered, that paragraph seven of said order in Decision No. 18918 reading:

Southern California Gas Company may execute a mortgage and/or deed of trust substantially in the same form as the mortgage and/or deed of trust filed in this proceeding on September 30th, provided that the authority herein granted to execute said mortgage and/or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage and/or deed of trust as to such other legal requirements to which said mortgage and/or deed of trust may be subject,

be and the same is hereby amended so as to read:

Southern California Gas Company may execute a mortgage and/or deed of trust substantially in the same form as the mortgage and/or deed of trust filed in this proceeding on October 21st, provided that the authority herein granted to execute said mortgage and/or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said mortgage and/or deed of trust as to such other legal requirements to which said mortgage and/or deed of trust may be subject.

It is hereby further ordered, that paragraph eight of the order in said Decision No. 18918 reading:

Southern California Gas Company may issue and sell at not less than 94 per cent of their face value and accrued interest, \$8,646,000 of its first mortgage and refunding 5 per cent gold bonds due September 1, 1957, and at not less than its par value, \$5,000,000 of its common capital stock and use said bonds and stock or the proceeds thereof, for the purposes mentioned in the foregoing opinion, provided that no indebtedness other than that authorized by this order may be incurred in connection with the purchase of the properties and the refunding of the indebtedness referred to herein,

be and the same is hereby amended so as to read:

Southern California Gas Company may issue and sell on or before March 31, 1928, at not less than 94 per cent of their face value and

accrued interest, \$8,646,000 of its first mortgage and refunding 5 per cent gold bonds due September 1, 1957, and at not less than its par value \$5,000,000 of its common capital stock and use said bonds and stock or the proceeds thereof for the purposes mentioned in the foregoing opinion, provided that Southern California Gas Company may assume and agree to pay, and discharge all debts, obligations, liabilities of Midway Gas Company, Valley Natural Gas Company, Central Counties Gas Company, Riverbend Gas and Water Company and Hanford Gas and Power Company, referred to in this application; and provided further, that all debts and liabilities so assumed shall be paid through the issue of the stock and bonds herein authorized, or through the use of surplus earnings which shall not be used as the basis for the issue of additional securities.

It is hereby further ordered, that paragraph nine of said order in Decision No. 18918 reading:

Southern California Gas Company may, pending the issue of said \$8,646,000 of first mortgage and refunding bonds and the issue of said \$5,000,000 of common stock, issue not exceeding \$6,747,000 of its first and refunding mortgage 5½ per cent gold bonds, Series "B," due September 1, 1952, and deliver not exceeding \$3,740,000 thereof at not less than par and accrued interest, in settlement of all or any part of the bank indebtedness of \$3,740,000 above mentioned, provided that it make such arrangements with said banks as will enable it to repurchase at par the bonds so issued upon the issuance by it of said first mortgage and refunding 5 per cent bonds. Upon the reacquisition of the \$3,740,000 of bonds, or such portion as may be issued in payment for bank loans, said bonds, together with the remainder of the \$6,747,000 of bonds, shall be pledged and deposited with the Union Bank and Trust Company of Los Angeles as California trustee under the mortgage and/or deed of trust which Southern California Gas Company is herein authorized to execute,

be and the same is hereby amended so as to read:

Southern California Gas Company may, pending the issue of said \$8,646,000 of first mortgage and refunding bonds and the issue of said \$5,000,000 of common stock, issue not exceeding \$6,747,000 of its first and refunding mortgage 5½ per cent gold bonds, Series "B," due September 1, 1952, and deliver not exceeding \$3,740,000 thereof at not less than par and accrued interest, in settlement of all or any part of the bank indebtedness of \$3,740,000 above mentioned, provided that it make such arrangements with said banks as will enable it to repurchase at par the bonds so issued upon the issuance by it of said first mortgage and refunding 5 per cent bonds. Southern California Gas Company may pledge with Union Bank and Trust Company of Los Angeles, one of the trustees, under the mortgage and/or deed of trust, which said company is herein authorized to execute, that portion of said \$6,747,000 of bonds remaining after the delivery of not exceeding \$3,740,000 thereof in settlement of all or any part of the bank indebtedness of \$3,740,000 referred to in this paragraph prior to or simultaneously with the reacquisition of the bonds so delivered in settlement

of said bank indebtedness referred to in this paragraph or the pledge thereof with said Union Bank and Trust Company of Los Angeles as such trustee, provided that all of said \$6,747,000 of bonds be deposited with said Union Bank and Trust Company of Los Angeles, as such trustee, on or before March 31, 1928.

It is hereby further ordered, that the order in said Decision No. 18918 shall remain in full force and effect, except as amended by this first supplemental order.

Dated at San Francisco, California, this twenty-eighth day of October, 1927.

DECISION No. 18975.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA UTILITIES, INC., FOR AUTHORITY TO INCREASE WATER RATES.

Application No. 13305.

Decided October 28, 1927.

RATES—WATER UTILITY—MULTIPLE-MINIMUM CHARGE.—Southern California Utilities, Inc., authorized to increase rates for water in and in the vicinity of Vernon and Goodyear Park, Los Angeles County, and request granted to eliminate multiple-minimum charge, and to make one monthly minimum charge for each meter connection regardless of the number of users on a single lot obtaining water through such meter.

Paul Overton, for Southern California Utilities, Inc.

O. A. Johnson, for Florence Chamber of Commerce, Protestant.

M. Paschall, for Compton Avenue Improvement Association, Protestant.

Mrs. Bettie Mahood, for Fruitland District of Huntington Park, Protestant.

LOUTTIT, COMMISSIONER.

OPINION ON REHEARING.

Southern California Utilities, Inc., applicant in the above entitled proceeding, filed a petition for rehearing on the matters involved in the opinion and order issued in this Commission's Decision No. 18399, dated May 25, 1927. Applicant alleges in effect that the rates established are unjust, unreasonable and confiscatory; that the evidence in the record does not support the findings made therein, that the sum of \$678,254 is a fair and proper rate base or that the sum of \$67,000 is an adequate and proper allowance for the operating and maintenance expense for the immediate future, or that the rate established herein is substantially the rate requested by applicant. The Commission is asked to grant a rehearing and, upon such rehearing, to modify its said decision.

A rehearing was granted by the Commission in its order issued July 21, 1927, and a public hearing in this matter was held at Los Angeles, after due notice thereof had been given so that all interested parties might be present and be heard.

At the hearing applicant asked permission to amend its application for rehearing to the extent of accepting the findings of the Commission in said Decision No. 18399 as to rate base amounting to \$678,254, the maintenance and operating expense of \$67,000, and the depreciation annuity, which was fixed at \$14,308, and requested the Commission to establish a rate which will yield a return of 8 per cent upon the above rate base over and above the said items of expense, including depreciation. A further request was made that the so-called multiple-minimum charge be eliminated and, hereafter, one monthly minimum charge be made for each meter connection, regardless of the number of users on a single lot who obtain water through that meter.

According to the claims of applicant, the rates established in the Commission's order in its Decision No. 18399 applied to the water use for 1926 would produce approximately \$120,000 and that the fire hydrant rental and other municipal use would produce an additional \$2,646.23, resulting in a total estimated revenue of \$122,646 for the year 1926. Applicant further contended that an annual gross revenue of \$135,568 would be required to produce a net return of 8 per cent upon the rate base established, which net return applicant claimed it was entitled to.

Testimony introduced by applicant indicated that certain difficulties which had heretofore arisen between the utility and the city of Vernon had been satisfactorily adjusted and that there now appeared to be no immediate danger of applicant losing any more of its industrial consumers to the municipality's water system. Applicant further stated that it was satisfied that the city of Vernon would not enter into any competition with the utility for the domestic business for some time to come.

A report was submitted by F. H. Van Hoesen, one of the Commission's hydraulic engineers, setting forth that the application of the rates established by the Commission to the 1926 water use would produce an estimated revenue of \$125,678, from which should be deducted approximately \$3,000 for business lost to the city of Vernon during the latter part of 1926. This report further shows that 67.3 per cent of the consumer months for 1926 would have received no increase from the new schedule of rates.

Considering the additional evidence presented in this proceeding, it is clear that the rate schedule established in Decision No. 18399 will not produce revenue sufficient to yield applicant the return upon its property devoted to public use that it is entitled to under existing conditions, and that the schedule of rates heretofore established in this proceeding should be modified.

In its former decision, the Commission did not eliminate the so-called multiple-minimum charge, which provides for the payment of a

monthly minimum charge by each user where water is furnished to more than one consumer through one service. However, due to the dissatisfaction expressed by consumers over this practice and in view of the testimony of the Commission's engineer relative to the manifold disadvantages of this type of rate structure, it appears advisable at this time to eliminate the multiple-minimum charges. As pointed out in the former decision, this action will result in a substantial loss of revenue to the utility, which will of necessity have to be compensated for in the revised schedule of rates. The rates set out in the following order are designed to produce sufficient revenue to permit the elimination of the so-called multiple-minimum charge and to provide a reasonable return on the capital invested in property devoted to the public use.

The following form of order is recommended:

ORDER.

Southern California Utilities, Inc., having made application as entitled above, a public hearing having been held thereon, and the Commission being now fully informed in the matter:

It is hereby found as a fact that the rates heretofore established in this proceeding for Southern California Utilities, Inc., by the Railroad Commission in its Decision No. 18399, dated May 25, 1927, for water delivered to consumers in and in the vicinity of Vernon and Goodyear Park, Los Angeles County, are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates for such service.

Basing its order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that Southern California Utilities, Inc., be and it is hereby directed to file with this Commission within thirty days of the date of this order the following schedule of rates to be charged for all water service rendered on and after the first day of October, 1927:

Minimum Monthly Charges.

8" x 1/4" meter	-----	\$1 25
1/4" meter	-----	1 50
1 " meter	-----	2 00
1 1/4" meter	-----	2 50
2 " meter	-----	3 50
3 " meter	-----	5 00
4 " meter	-----	10 00
6 " meter	-----	25 00

Each of the foregoing "minimum monthly charges" will entitle the consumers to the quantity of water which that monthly minimum charge will purchase at the following quantity rates:

Monthly Quantity Rates.

0 to 800 cubic feet per 100 cubic feet	-----	\$0 1562
Next 1,200 cubic feet per 100 cubic feet	-----	15
Next 8,000 cubic feet per 100 cubic feet	-----	13
Over 10,000 cubic feet per 100 cubic feet	-----	11

Flat Rates.

(1) For cement walk for each 100 square feet-----	\$0 20
(2) For cement curbs for each 100 linear feet-----	40
(3) For all other purposes—per barrel of cement used-----	10
(4) For grading, macadam or other natural surface street work per 1000 square feet -----	50
(5) For water settling pipe trenches, less than 2 feet in width and 4 feet in depth per linear foot trench -----	02
For wider and deeper trenches, a proportional charge shall be made.	
(6) Fire hydrants—each month -----	1 00

It is hereby further ordered, that Southern California Utilities, Inc., be and it is hereby directed to discontinue on and after the effective date of the schedule of rates established herein the collection of more than a single minimum monthly charge for each metered service connection.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-eighth day of October, 1927.

DECISION No. 18977.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA GRANTING TO APPLICANT A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO EXERCISE THE RIGHTS, PRIVILEGES AND FRANCHISE GRANTED BY ORDINANCE No. 399 OF THE BOARD OF TRUSTEES OF THE CITY OF SANTA CLARA.

Application No. 13745.

Decided November 1, 1927.

CERTIFICATE—GAS UTILITY.—Pacific Gas and Electric Company authorized to exercise franchise rights and privileges and to render gas service in the city of Santa Clara.

CERTIFICATES—GROUNDS FOR GRANTING OR REFUSING—PRIOR ILLEGAL OPERATIONS.—Upon the taking over by a private company of a gas system theretofore legally constructed and operated by a municipality, as, during the necessary lapse of time prior to the securing of a franchise and authority from the Commission to exercise such franchise, the system must of necessity continue to function, a certificate will not be denied on the ground that the company was violating the law by carrying on the business.

C. P. Cutten and R. W. Du Val, by *R. W. Du Val*, for Applicant.
L. H. Albertson, Protestant.

BY THE COMMISSION.

OPINION.

This is the amended application of Pacific Gas and Electric Company asking the Commission to make its order granting applicant a certificate

of public convenience and necessity to exercise the rights, privileges and franchise granted by the board of trustees of the city of Santa Clara.

A public hearing before Examiner Gannon was held at Santa Clara September 1, 1927, at which time testimony was introduced and the matter submitted for decision.

It appears that on or about December 27, 1926, applicant purchased the municipal gas distribution system of the city of Santa Clara, and has since been conducting a general retail gas service in that locality. Subsequent to said purchase the city of Santa Clara, by Ordinance No. 399, passed May 23, 1927, granted applicant a franchise to lay, maintain and/or use gas facilities within the city of Santa Clara. The franchise, which is for a term of 50 years, carries the usual provision for a tax of 2 per cent upon the gross revenue. A certified copy of the franchise is attached to the amended application, being marked Exhibit "A."

L. H. Albertson protests, in effect, that applicant in operating a retail gas business within the city of Santa Clara, prior to the securing of a certificate of public convenience and necessity from this Commission, was violating the law, particularly in so far as such operation involved the laying of mains in city streets and similar exercise of functions ordinarily permitted only under franchise authority. Applicant admitted such operations had been carried on but urged that the practical necessity of such work must take precedence over technical legal matters.

Here we have the taking over of a gas distribution system heretofore legally constructed and operated by a municipality. During the necessary lapse of time prior to the securing of a franchise and authority from the Commission to exercise such franchise, the system must of necessity continue to function.

This Commission is here concerned with the matter of present and future necessity for the exercise of a franchise. Protestant has introduced no evidence to show that the withholding of a certificate of public convenience and necessity would be in the public interest. On the other hand, the evidence indicates that applicant is the only party rendering a gas service within the city of Santa Clara; that such service is rendered at rates prevailing in neighboring territory; that such service can be rendered without detriment to applicant's other consumers; and that public convenience and necessity reasonably require that applicant should exercise the rights and privileges under the franchise mentioned above.

Applicant has filed with the Commission a stipulation, duly and legally authorized by its board of directors, to the effect that applicant,

its successors or assigns, will never claim before the Railroad Commission or any court or other public body any value for the aforesaid franchise in excess of the amount actually paid to the city of Santa Clara for said franchise, which amount is \$100.

ORDER.

Pacific Gas and Electric Company having applied to the Railroad Commission of the State of California for a certificate of public convenience and necessity for the exercise of certain rights and privileges granted by the city of Santa Clara in Ordinance No. 399, a public hearing having been held, the matter having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby certifies and declares that public convenience and necessity require and will require the exercise by Pacific Gas and Electric Company of those rights and privileges granted by Ordinance No. 399, adopted by the board of trustees of the city of Santa Clara on May 23, 1927.

The authority herein granted shall be effective from and after the date of this order.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this first day of November, 1927.

DECISION No. 18979.

IN THE MATTER OF THE APPLICATION OF BELVEDERE WATER CORPORATION FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES GRANTED APPLICANT BY THE COUNTY OF LOS ANGELES, UNDER ORDINANCE No. 1468.

Application No. 13912.

Decided November 2, 1927.

CERTIFICATE—WATER UTILITY.—Belvedere Water Corporation authorized to operate a water system in the vicinity of Belvedere, Los Angeles County.

McCutchen, Olney, Mannon and Greene by John T. Pigott, for Applicant.

BY THE COMMISSION.

OPINION.

Belvedere Water Corporation, applicant in the above entitled proceeding, operating a public utility water system supplying water to a large territory contiguous to the easterly boundary of the city of Los Angeles, known as Belvedere, asks the Railroad Commission for a certificate of public convenience and necessity to exercise rights and privileges heretofore granted to it by the county of Los Angeles under

ordinances No. 1107 and No. 1468 (new series), set forth in Exhibits "A" and "B" attached to the application herein.

A public hearing in this matter was held before Examiner Williams at Los Angeles, after due notice thereof had been given so that all interested parties might appear and be heard.

Applicant herein is a public utility which for several years has supplied water to a large number of consumers in and in the vicinity of the section of the city of Los Angeles known as Belvedere and is, therefore, financially able to extend its water distributing facilities and render adequate service throughout the area covered by its franchise rights granted in ordinances No. 1107 and No. 1468 (new series), county of Los Angeles. No one protested against the granting of this application and, as there is no other public utility water system now furnishing water within the territory covered by the above franchises, it appears that the request should be granted.

ORDER.

Belvedere Water Corporation having made application as entitled above, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that Belvedere Water Corporation operate a water system for the purpose of supplying water to consumers residing in the area as more particularly described in Ordinance No. 1107 (new series) and Ordinance No. 1468 (new series), county of Los Angeles.

The authority granted herein shall become effective on the date hereof.

Dated at San Francisco, California, this second day of November, 1927.

DECISION No. 18981.

IN THE MATTER OF THE APPLICATION OF GORE BROS., INC., FOR AN ORDER PERMITTING IT TO DISCONTINUE PUBLIC UTILITY SERVICE.

Application No. 13753.

Decided November 3, 1927.

SERVICE—ABANDONMENT—WATER UTILITY.—Gore Bros., Inc., authorized to discontinue operation of its water system serving Tract No. 5644 in Los Angeles County.

SERVICE—ABANDONMENT—REASONS FOR—OPERATION AT A LOSS.—Although the Commission can not too strongly condemn operating methods of a utility which has from the start operated illegally, never having obtained a certificate

from the Commission, authorization to discontinue service was granted where the system could not be operated at other than a financial loss; the supply had been condemned as unfit for human consumption, and other water was readily available from a reliable source.

Schweitzer and Hutton, by Frank S. Hutton and F. O. Stevens, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled proceeding, Gore Bros., Inc., whose principal business is the subdivision and sale of real properties, applies to this Commission for authority to discontinue the operation of its water system supplying water for domestic purposes to certain consumers residing in Tract No. 5644, in Los Angeles County. The application alleges in effect that it is a public utility furnishing water for compensation to eleven consumers at the present time; that the system was installed in 1923 to provide temporary water service only until such time as a permanent supply could be obtained; and that such supply is now available from the municipal water system of the city of Los Angeles, which now has its water mains in the streets in front of each and every lot in the tract served. It is further alleged that the city board of health has found the water supply to be polluted and unfit for human consumption and demands that a safe and proper water supply be obtained without delay; wherefore, applicant requests the Railroad Commission to grant it permission to discontinue its water service and abandon its well and system.

A public hearing in this matter was held before Examiner Williams at Los Angeles, after all interested parties had been duly notified and given an opportunity to appear and be heard.

This water system was originally installed by applicant to provide a temporary water supply to aid in the sale of its lots in Tract No. 5644, in Los Angeles County. The water is obtained from a well which is only 40 feet deep and, as the terrain in the general vicinity is comparatively low and contains a great number of cesspools, the contamination of the water is inevitable. The testimony of H. H. Mathieson, sanitary engineer for the Los Angeles City Board of Health, indicates that the present water supply is in a deplorable condition, being highly polluted and wholly unsafe for domestic use. At the present time, there are eleven consumers dependent upon this system for water service.

By reason of the unsafe condition of the water supplied by applicant, a few of the consumers formerly receiving water from this system have discontinued its use and are now obtaining water from the mains of the Los Angeles municipal water works which now has its mains throughout this tract. However, in view of the promises of Gore Bros., Inc.,

in marketing its lots that there was already installed an adequate water system, the remaining consumers do not consider it fair that they should now be required to stand the expense of paying 80 cents per front foot and \$15 for a meter connection, which is required by the city to obtain service from its mains. These consumers contend that the subdivider, Gore Bros., Inc., should pay for all costs required to receive service from the city system. Unquestionably, these consumers have been imposed upon in the matter of water supply. The system installed by applicant is admittedly temporary and of misfit construction and was never at any time seriously intended to be a proper water supply for the community served. Gore Bros., Inc., has from the start operated illegally, never having applied for or received from this Commission a certificate of public convenience and necessity to operate a public utility water works, although it is now willing enough to apply in a legal manner to be relieved of the responsibilities of a public utility nature which it has nevertheless incurred by its distribution of water for compensation. Although this Commission can not too strongly condemn the inconsiderate operating methods of applicant in this instance, yet the evidence shows that this system is not now being operated, and probably could not be operated, at other than a financial loss. In view of the fact that the applicant's water supply has been condemned as unfit for human consumption and that the costs of securing a safe and potable water supply will increase the present financial loss, and as other water is readily available from a reliable source, it appears that the authority requested should be granted.

ORDER.

Gore Bros., Inc., operating a public utility water system supplying certain consumers in Tract No. 5644, in Los Angeles County, having made application to the Railroad Commission for authority to discontinue its public utility service in said tract, a public hearing having been held thereon, the matter having been duly submitted and the Commission being now fully advised in the premises;

It is hereby ordered, that Gore Bros., Inc., be and it is hereby authorized to discontinue, on or after the first day of November, 1927, the service of water to all its consumers in Tract No. 5644, in Los Angeles County, upon the following terms and conditions:

1. Gore Bros., Inc., within ten days from the date of this order shall notify each of its consumers, in writing, of its intention to discontinue water service on or after the first day of November, 1927.
2. That, within ten days after such notice has been given, applicant shall file with this Commission a certified statement to the effect that such notice has been duly given.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this third day of November, 1927.

DECISION No. 18984.

IN THE MATTER OF THE APPLICATION OF THE ATCHISON, TOPEKA
AND SANTA FE RAILWAY COMPANY FOR PERMISSION TO CAN-
CEL CERTAIN RATES.

Application No. 14019.

Decided November 3, 1927.

RATES—RAILROAD.—The Atchison, Topeka and Santa Fe Railway Company author-
ized to cancel commodity rates on lumber from Woodrock.

Platt Kent and George T. Hurst, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by The Atchison, Topeka and Santa Fe Rail-
way Company for permission to cancel from its Tariff 5958-J, C. R. C.
528, commodity rates on lumber from Woodrock to stations on its line
in California, as set forth in Exhibit "A" attached to and made a part
of the application.

The applicable rates after cancellation of these commodity rates will
be Class "B" as published in Atchison, Topeka and Santa Fe Tariff
9885-E, C. R. C. 504, or combination of class and commodity rates
using this tariff and 5958-J, C. R. C. 585.

A public hearing was held at San Francisco October 27, 1927, before
Examiner Geary, and the case having been duly submitted is now ready
for our opinion and order.

Witness for applicant testified that these particular rates were estab-
lished effective October 12, 1926, upon request of the San Joaquin Light
and Power Company, but the company failed to consummate its pro-
posed development, offered no tonnage, and now advises no shipments
are contemplated; furthermore it has no objections to the cancellation
of the items from the tariff.

Woodrock is on a branch line, is not a lumber producing station,
and there are no prospects of any mills being erected in the near future.
The rates here involved have been entirely lifeless and a burden in
the tariff.

There were no appearances in opposition, although shippers were
notified of the hearing.

Upon consideration of all the facts of record we are of the opinion
and find that applicant should be permitted to cancel the rates on
lumber as set forth in Exhibit "A" attached to the application and
published in Tariff 5958-J, C. R. C. 528.

ORDER.

This application having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which is hereby referred to and made a part hereof;

It is hereby ordered, that The Atchison, Topeka and Santa Fe Railway Company be and it is hereby authorized to cancel the rates set forth in the application and published in Tariff 5958-J, C. R. C. 528.

Dated at San Francisco, California, this third day of November, 1927.

DECISION No. 18985.

SHELL COMPANY OF CALIFORNIA

vs.

SOUTHERN PACIFIC COMPANY, CENTRAL CALIFORNIA TRACTION COMPANY, SACRAMENTO NORTHERN RAILWAY, SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY, THE WESTERN PACIFIC RAILROAD COMPANY.

Case No. 2418.

Decided November 3, 1927.

REPARATION.—Shell Company of California awarded reparation on four carloads of gasoline shipped from Martinez to Yuba City and Woodland.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the State of California with its principal place of business at San Francisco, is engaged in buying, refining and marketing petroleum oils and products thereof. By complaint filed September 28, 1927, it alleges that the rates charged on four carloads of gasoline shipped from Martinez, one to Yuba City and three to Woodland, during December, 1926, were unjust and excessive. Reparation only is sought. Rates will be stated in cents per 100 pounds.

The shipments involved were routed by the consignor. The car to Yuba City moved over the Southern Pacific to Stockton, the Western Pacific to Sacramento, thence Sacramento Northern Railway. Two of the cars to Woodland moved over the Southern Pacific to Stockton, Central California Traction Company to Sacramento, thence Sacramento Northern Railway. The other car to Woodland moved over Southern Pacific to McAvoy, San Francisco-Sacramento Railroad to Sacramento, thence Sacramento Northern Railway. Combination rates of 23 cents to Yuba City and 23½ cents to Woodland were charged. These rates are made 12 cents to Sacramento plus 11 cents and 11½ cents to Yuba City and Woodland respectively.

Martinez is on the Southern Pacific Company 20 miles east of Richmond; the points of destination are on the Southern Pacific and Sacramento Northern Railway. The local tariff of the Southern Pacific Company effective at the time the shipments involved herein moved, named rates on gasoline, carload, from Martinez to Woodland 16 cents and Yuba City 20 cents. Joint rates of the same volume were also in effect with routing over the Southern Pacific to Sacramento and Sacramento Northern Railway beyond.

Defendant Sacramento Northern Railway published effective June 21, 1927, proportional rates from Sacramento of 4 cents to Woodland and 8 cents to Yuba City. These rates used in conjunction with the rate of 12 cents from Martinez to Sacramento result in through rates of 16 cents to Woodland and 20 cents to Yuba City. Complainant bases its plea for reparation upon the rates effective June 21, 1927. Defendants admit the allegation of the complaint and have signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rates assailed were unjust and unreasonable to the extent they exceeded the subsequently established rates of 20 cents to Yuba City and 16 cents to Woodland. We find further that complainant paid and bore the charges on the shipments involved and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rates herein found reasonable and that it is entitled to reparation in the sum of \$151.33.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company, Central California Traction Company, San Francisco-Sacramento Railroad Company, The Western Pacific Railroad Company, and Sacramento Northern Railway according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Shell Company of California, all charges they may have collected in excess of 20 cents per 100 pounds on one carload of gasoline moved from Martinez to Yuba City and 16 cents per 100 pounds on three carloads moved from Martinez to Woodland during the month of December, 1926.

Dated at San Francisco, California, this third day of November, 1927.

DECISION No. 18994.

SPERRY FLOUR COMPANY, A CORPORATION,

vs.

ISLAND TRANSPORTATION COMPANY, A CORPORATION.

Case No. 2335.

Decided November 3, 1927.

RATES—VESSELS—REASONABLENESS—DISCRIMINATION.—Complaint alleging rates by vessel on flour and related articles from South Vallejo to Stockton to be unjust and unreasonable, and alleging rates on similar articles between San Francisco and Stockton and between Oakland and Stockton to be unduly discriminatory to South Vallejo, and asking reparation, dismissed.

RATES—VESSELS—INTERMEDIATE POINTS.—It appearing from the evidence that South Vallejo is an out-of-line landing wharf on the route between San Francisco and Stockton, in the absence of specific proof to the contrary, it can not be given the status of an intermediate point as contemplated by section 24 (a) of the Public Utilities Act.

RATES—REASONABLENESS—COMPARISONS—IN GENERAL.—Mere comparison of rates when no evidence is submitted to show that the rates used as a measure are *per se* just and reasonable shall have little, if any, probative value.

DISCRIMINATION—RATES—AS BETWEEN LOCALITIES.—Discrimination to be unlawful must be unjust, and to be unjust it must be shown that the rates at the preferred points are not justified, and that the circumstances and conditions are the same as at the point which is alleged to be damaged.

RATES—REASONABLENESS—EFFECT OF COMPETITION.—Carrier competition has long been recognized as a controlling factor in creating different circumstances and conditions, warranting a lower level of rates between points where the competition exists than between the points not so situated.

DISCRIMINATION—RATES—AS BETWEEN LOCALITIES.—The mere showing that rates from one point in a territory are higher than rates from other points in that territory, whether maintained by the same carrier or different carriers, does not establish the fact of undue prejudice or preference. (*T. & P. R. R. Co. vs. Interstate Commerce Commission*, 162 U. S. 197; *Interstate Commerce Commission vs. Alabama M. R. Co.*, 168 U. S. 144; *L. & N. R. Co. vs. Behlmer*, 175 U. S. 648; *East Tenn. V. & G. R. Co. vs. Interstate Commerce Commission*, 181 U. S. 1; *Interstate Commerce Commission vs. L. & N. R. Co.*, 190 U. S. 273.)

E. D. Smith for Complainant.
Gwyn H. Baker, for Defendant.

BY THE COMMISSION.

OPINION.

Complainant is a corporation organized under the laws of the State of California, with its office in San Francisco and a mill at South Vallejo, California, and is engaged in buying, selling and manufacturing grain and grain products. It is alleged by complaint seasonably filed (a) that the rate of \$2 per ton, minimum weight 12 tons, assessed by defendant for the transportation of flour and articles taking the same rate, moving during the period extending from June 1, 1926, to March 10, 1927, inclusive, from South Vallejo to Stockton was at the time the shipments moved and for the future will be unjust, unreasonable and in violation of section 13 of the Public Utilities Act to the

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extent it exceeded or may exceed \$1.40 per ton, minimum weight 30 tons; and (b) that the concurrently effective rates maintained by defendant on flour and related articles between San Francisco and Stockton and between Oakland and Stockton, of \$1.40 per ton and \$1.60 per ton, respectively, minimum weight 40 tons, are and for the future will be unduly discriminatory to South Vallejo, in violation of section 19 of the act.

Reparation and just, reasonable, nonprejudicial and nonpreferential rates for the future are sought. Rates will be stated in dollars and cents per ton of 2000 pounds.

A public hearing was held before Examiner Geary at San Francisco, and the case having been duly submitted and briefs filed, is now ready for our opinion and order.

South Vallejo is situated at the confluence of Napa Creek and San Pablo Bay. It is served by defendant and the Southern Pacific Company, and the distance by water to Stockton is approximately 76 miles and by rail 108 miles. Complainant's Vallejo mill is located on tide-water and is equipped with docks, spur tracks and other facilities to enable it efficiently and quickly to receive and ship its products by either rail or water. The major portion of complainant's coarse grain is secured in the Pacific northwest and adjacent territory and moves either by rail direct, or by rail to Portland, thence by water to Vallejo, where it is manufactured into flour and other cereal products. In distributing the manufactured articles to the Stockton district, complainant can use the services of both defendant and the Southern Pacific Company.

The present rate of defendant from South Vallejo to Stockton is \$2 per ton and that of the Southern Pacific \$2.10 per ton. The \$2 rate was assessed and collected on the shipments here involved which moved during the period extending from December, 1926, to March, 1927, inclusive. Prior to December, 1926, defendant erroneously applied a rate of \$1.40, the concurrent rate on flour and mill stuff from San Francisco to Stockton, which rate was not in effect at the intermediate points. For a time defendant through an oversight published this violative rate of \$1.40 without express authority of this Commission under the provisions of section 24 (a) of the Public Utilities Act, a situation which has since been cured by an appropriate order. Complainant admits that on and after May 30, 1926, when the tariff was corrected, the rate of \$2 was applicable, and the record indicates that whatever undercharges existed on the shipments moving subsequent thereto have been paid to defendant. Complainant maintains that on the shipments moving before May 30, 1926, the published rate of \$2 from South Vallejo to Stockton was inapplicable, contending for the \$1.40 rate upon the grounds that South Vallejo is directly intermediate

between San Francisco and Stockton. The record, however, does not sustain the contention that South Vallejo is an intermediate point on this water route. The only evidence submitted in this connection was some photographs taken from a point in the main channel in Carquinez Straits showing that the docks of complainant were visible to the naked eye. The actual distance from the Carquinez Straits fairway to the docks at South Vallejo is not in evidence, nor does the record show that the vessels traveling by any of the regular routes, California Navigation and Improvement Company, California Transportation Company, or Southern Pacific Company, traversing the waterways between Stockton and San Francisco, pass near or touch at South Vallejo. From the evidence submitted it appears South Vallejo is an out-of-line landing wharf on the route between San Francisco and Stockton, and in the absence of specific proof to the contrary can not be given the status of an intermediate point as contemplated by section 24 (a) of the Public Utilities Act.

Complaint in support of its plea that the South Vallejo-Stockton rate was and is unreasonable *per se* compares the assailed rate of \$2 with the rates concurrently maintained by defendant on flour of \$1.40 minimum weight 40 tons between San Francisco and Stockton; \$1.60 minimum 40 tons and \$2 minimum 12 tons between Oakland and Stockton, and a rate of \$1.35 minimum 20 tons on grain and mill feed between Stockton and South Vallejo. Complainant points to the fact that the haul from San Francisco to Stockton is farther than from South Vallejo to Stockton and also contends that the tidal conditions, loading facilities, handling and other operating factors are favorable for the handling of grain at South Vallejo. While the evidence indicates the operating conditions from South Vallejo to Stockton are on the whole more satisfactory than between Oakland-San Francisco and Stockton, complainant has failed to show on this record that the rates used as a measure are in and of themselves reasonable.

Complainant also compares the assailed rate with the rate of \$1.70, minimum weight 10 tons, on sugar between Oakland-Crockett on the one hand and Stockton on the other. This rate is applicable only via the California Transportation Company and is nonintermediate by authority of this Commission, Decision No. 3428, June 19, 1916, in Case No. 214-C, 10 C. R. C. 377, and Decision No. 7983, August 17, 1920, in Application No. 5728, 18 C. R. C. 646. No evidence was submitted to show that this terminal rate on sugar was *per se* a just and reasonable rate. We have repeatedly held that mere comparisons of rates such as these have little if any probative value.

Defendant contends the rates between terminal points are unremunerative, and directs attention to the fact that there is now pending before this Commission a petition, Case No. 2319, Bay and River Boat

Owners' Association versus practically all river boat operators, for authority to increase the flour rates between San Francisco-Oakland and Stockton from \$1.40 to \$2 per ton. Defendant claims that flour is a difficult commodity to handle, being very susceptible to damage, that in most cases it must be transported in closed barges with the decks and sides lined with paper, and that extra care is required in trucking by reason of the fact that the bags are easily broken. In addition it is maintained that in handling flour from South Vallejo to Stockton it is not possible except in remote instances to utilize the barges traveling between San Francisco and Stockton, but it is necessary to send special equipment from Stockton. Witnesses for defendant testified that the average barge time in the transportation of a load of flour from Vallejo to Stockton was approximately 48 hours. This time is segregated into 12 four-hour periods, as follows: first, the movement from Stockton to Vallejo; second, the loading at the barge; third, the movement from Vallejo to Stockton; and fourth, the unloading at destination. If a barge is available near complainant's mill the time is reduced by approximately 12 hours. There was further testimony to the effect that the minimum labor cost for the operation of a barge in the round trip is \$140, and to this sum should be added the cost of fuel, insurance and overhead. The average transportation revenue received is \$200 per trip, which under the proposed rate would be reduced to approximately \$140 per trip. Defendant contends that the rate of \$1.40 between San Francisco and Stockton is extremely low, and that it was necessary to maintain this rate inasmuch as the California Transportation Company published a rate of the same volume, but the record shows that defendant did not handle any flour for this complainant from San Francisco to Stockton by its barges.

A copy of defendant's financial statement for the year 1926, submitted in evidence, shows that the transportation revenue received was \$94,515.62, and the operating expenses including taxes and depreciation were \$150,978.24, resulting in a deficit from operations of \$56,462.62. The sum of \$27,725.85 was charged to depreciation of property and equipment. A deduction of this amount from the operating expenses leaves an out-of-pocket loss of \$28,736.77 for the year. Prior years also show operations at substantial losses.

After careful consideration of all the facts of record we are of the opinion and find that complainant has failed to show that the assailed rate is either unjust or unreasonable.

There now remains for consideration complainant's allegation that the rate of \$1.40 per ton from San Francisco to Stockton is unduly discriminatory to complainant.

In selling flour and other milled products at Stockton complainant

is more or less in competition with the flour mills at San Francisco and Oakland, and also with mills in the Pacific Northwest which forward their products to San Francisco by steamer and reship from that port to Stockton. Complainant forwards consignments of flour by rail and water from its mill at Spokane, Washington, to San Francisco, and practically all of its movement of flour from San Francisco to Stockton is moved by the California Transportation Company. Defendant, while maintaining the same rate as the California Transportation Company from San Francisco to Stockton, did not during the year 1926 handle any of the tonnage between these two cities. If any discrimination exists by reason of the lower rate between San Francisco and Stockton, it is not caused by defendant but by a carrier not a party to this proceeding. Discrimination to be unlawful must be unjust, and to be unjust it must be shown that the rates at the preferred points are not justified and that the circumstances and conditions are the same as at the point which is alleged to be damaged. This record shows that the circumstances and conditions surrounding the rates between San Francisco and Oakland are different from those which govern the South Vallejo to Stockton rate. As previously stated, the first mentioned rates were established by this defendant to meet the competition of the California Transportation Company, and that this carrier does not operate between South Vallejo and Stockton. Carrier competition has long been recognized as a controlling factor in creating different circumstances and conditions, warranting a lower level of rates between points where the competition exists than between points not so situated. The mere showing that rates from one point in a territory are higher than rates from other points in that territory whether maintained by the same carrier or different carriers, does not establish the fact of undue prejudice or preference. (*Texas and Pacific R. R. vs. Interstate Commerce Commission*, 162 U. S. 197; *Interstate Commerce Commission vs. Alabama Midland R. Co.*, 168 U. S. 144; *Louisville and N. R. Co. vs. Behlmer*, 175 U. S. 648; *East Tennessee V. & G. R. Co. vs. Interstate Commerce Commission*, 181 U. S. 1; *Interstate Commerce Commission vs. Louisville & N. R. Co.*, 190 U. S. 273.)

We are of the opinion and find from all the facts of record that the rate assailed was not in the past nor is it now unduly discriminatory. The complaint should be dismissed.

ORDER.

This case having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that the complaint in this proceeding be and it is hereby dismissed.

Dated at San Francisco, California, this third day of November, 1927.

DECISION No. 18995.

SAN FRANCISCO MILLING COMPANY, LIMITED, A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 2361.

Decided November 3, 1927.

RATES—RAILROAD—REPARATION.—Southern Pacific Company directed to make reparation to complainant on shipments of grain and grain products moving from points north of Davis and Roseville, milled in transit at San Francisco, and subsequently reshipped to points south thereof to and including Redwood City.

RATES—RAILROAD—BACK HAUL.—While defendant carrier urged that the only route available for traffic from northern origin points destined to Redwood City was through Stockton, Livermore and Dumbarton, hence the milling point, San Francisco, not being directly intermediate via this route, there was a back haul service from San Francisco to Redwood City, where the carrier had published specific rates to Redwood City, which rates, under the provisions of the carrier's routing circular, applied through the Dumbarton gateway, and also via Suisun, Oakland and San Francisco, this made San Francisco a directly intermediate point in the movement to Redwood City via the latter route, and since the publication of specific rates to Redwood City no back haul charge was applicable. Reparation awarded.

SCHEDULES AND TARIFFS—CONSTRUCTION—AMBIGUITIES.—A tariff ambiguity must be construed against its framer provided the interpretation placed thereon does not result in an absurd situation. (*Golden Gate Brick Co. vs. W. P. R. R.*, 2 C. R. C. 507; *Pacific Coast Shippers Association vs. A. C. & Y. R. Co.*, 112 I. C. C. 527.)

Max B. Schulz and *Carl R. Schulz*, for Complainant.
James E. Lyons, *F. W. Mielke* and *A. L. Whittle*, for Defendant.
O. S. Connolly, for Albers Bros. Milling Company, Intervener.
E. E. Smith, for Sperry Flour Company, Intervener.
Carl R. Schulz, for Consolidated Milling Company, Intervener.
C. H. Teitzchel, for Sacramento Chamber of Commerce.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, with its principal place of business at San Francisco, is engaged in buying, selling and manufacturing grain and its products. By complaint filed April 30, 1927, and as amended at the hearing, it is alleged that the out-of-line charge of 2 cents per hundred pounds assessed and collected by defendant on various carloads of grain and grain products moving during the period of two years prior to the filing of the complaint from points in the Sacramento Valley north of Davis and Roseville, milled in transit at San Francisco, and subsequently reshipped to points south thereof to and including

Redwood City, is contrary to the provisions of defendant's tariffs lawfully on file with this Commission, in violation of section 17 of the Public Utilities Act, and subjects complainant to undue prejudice and disadvantage and extends undue preference and advantage to complainant's competitors located at Sacramento and Stockton, in violation of section 19 of the act.

We are asked to award reparation, and to require defendant to cease and desist from the alleged violations of the act.

A public hearing was held before Examiner Geary at San Francisco August 19, 1927, and the case having been duly submitted is now ready for our opinion and order.

The points of origin here involved are situated in the Sacramento Valley north of Davis and Roseville; the destination territory embraces the points on the Coast Division of defendant south of San Francisco to and including Redwood City.

Complainant in the conduct of its business maintains a mill at San Francisco for the manufacture of grain products. A portion of the coarse grain used is secured from points in the Sacramento Valley north of Davis and Roseville, is milled in transit at San Francisco, and the finished products subsequently reshipped to Redwood City and various other points in California. At the time complainant's shipments moved, defendant's Terminal Tariff 230-I, C. R. C. 2826, and superseding issues provided that shipments milled in transit would be assessed the applicable rate on the coarse grain into the transit point, and upon the completion of the movement of the manufactured articles from the transit point to the final destination and the surrender of the inbound tonnage slips, would be assessed charges based on the difference between the rate paid and that applicable on the manufactured articles from point of origin to final destination, provided the transit point was directly intermediate. In the event the transit point was not directly intermediate, a charge in addition to the line haul rate varying from 2 to 6 cents per hundred pounds, according to the length of haul, was applicable for the out-of-line, indirect or back haul service. Complainant's shipments were assessed the line haul rates in accordance with defendant's Grain Tariff 793-B, C. R. C. 2487, and in addition paid a back haul charge of 2 cents per hundred pounds. The line haul rates are not here involved, the sole question being whether or not the back haul charge published in defendant's terminal tariff referred to above was properly applicable.

Prior to January 5, 1927, defendant did not publish specific through rates on grain products in its line haul tariff from the origin points here at issue to Redwood City. The line haul rates applicable were the San Francisco rates held as maximum by reason of the fact that defendant's Routing Circular 199-E, C. R. C. 2711, provided an alternative route

in connection with the San Francisco rates to apply via Stockton, Livermore and Dumbarton, making Redwood City directly intermediate to San Francisco. Defendant urges that the only route available for traffic destined to Redwood City was through Stockton, Livermore and Dumbarton, hence the milling point, San Francisco, not being directly intermediate via this route, there was a back haul service from San Francisco to Redwood City. Effective January 5, 1927, defendant published specific rates to Redwood City, and these rates, under the provisions of the routing circular referred to above, applied through the Dumbarton gateway and also via Suisun, Oakland and San Francisco, thus making San Francisco a directly intermediate point in the movement to Redwood City via the latter route. Since the publication of specific rates to Redwood City there has been no back haul charge applicable.

Complainant contends that the assessing of the back haul charge prior to January 5, 1927, was contrary to the provision of paragraph E, section 4 of the Terminal Tariff, which reads:

The charge for the out-of-line, indirect or back haul shipments will be based upon the additional distance traversed in movement to and from transit point as against direct short-line mileage or mileage via routes in which the Southern Pacific Company (Pacific Lines) participates from point of origin of inbound commodity to final destination of the outbound product.

Complainant does not question the fact that in holding the San Francisco rates as maximum at Redwood City the only available route via which the rates applied at the time these shipments moved was through Stockton, Livermore and Dumbarton, but it is contended that there is no additional distance traversed in the movement to and from the transit point via Suisun and Oakland as against the mileage via Stockton, Livermore and Dumbarton. For example, the distance from Willows to San Francisco thence to Redwood via the short-line mileage through Suisun and Oakland is 149 miles, while the distance through Stockton, Livermore and Dumbarton is 215.8 miles. In other words, complainant maintains that if the short-line mileage from the point of origin to the transit point thence to the final destination is less than the distance traversed from point of origin to final destination via other authorized routes, the back haul charge is not applicable.

Defendant testified that it was never the intention to apply paragraph E, section 4 of the Terminal Tariff in this manner, contending that where the rates apply only via the longer route the short-line mileage to and from the transit point could not be used in computing the back haul involved unless the rates also apply via the latter route. Defendant admits that had there been specific rates published to Redwood City, the routing circular would have permitted the application of the rates via Suisun, Oakland and San Francisco, in which event there would have been no back haul charge applicable.

If it were defendant's intention to restrict the computation of the mileage to and from the transit point only to those routes via which the line haul rates from point of origin to final destination apply, the tariff should so state in definite terms. Manifestly paragraph E, section 4 of the Terminal Tariff is ambiguous, and we have repeatedly held that a tariff ambiguity must be construed against its framer provided the interpretation placed thereon does not result in an absurd situation. (*Golden Gate Brick Company vs. Western Pacific Railroad*, 2 C. R. C. 507; *Pacific Coast Shippers Association vs. A. C. & Y. R. Co.*, 112 I. C. C., 527.)

After careful consideration of all the facts of record we are of the opinion and find that the back haul charge of 2 cents per hundred pounds assessed on complainant's shipments involved in this proceeding, moving from points north of Davis and Roseville, milled in transit at San Francisco, and the manufactured products subsequently reshipped to points south thereof to and including Redwood City, was contrary to the applicable tariffs lawfully on file with this Commission.

In view of our findings herein it will not be necessary to consider complainant's allegation of undue preference and advantage, and undue prejudice and disadvantage.

ORDER.

This case having been duly heard and submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund to complainant, San Francisco Milling Company, all charges it may have collected in the amount of the difference between the charges paid and the charges herein found applicable on shipments of grain and grain products involved in this proceeding, moving from points north of Davis and Roseville, milled in transit at San Francisco, and subsequently reshipped to points south thereof to and including Redwood City.

Dated at San Francisco, California, this third day of November, 1927.

DECISION No. 18996.

J. SOUZA

vs.

SAN FRANCISCO-SACRAMENTO RAILROAD COMPANY AND SOUTHERN
PACIFIC COMPANY.

Case No. 2402.

Decided November 3, 1927.

REPARATION.—Defendants directed to refund to complainant all charges collected in excess of 27 cents per 100 pounds on a shipment of cows moved from Moraga to Ripon during December, 1926.

BY THE COMMISSION.

OPINION.

Complainant, an individual, with postoffice address Moraga, Contra Costa County, California, is engaged in farming. By complaint filed August 30, 1927, he alleges that the charge assessed and collected on a less than carload shipment of cows moved from Moraga to Ripon during December, 1926, was unreasonable to the extent it exceeded charges based on a rate of 27 cents per 100 pounds and weight of 15,000 pounds. Reparation only is sought.

Moraga is on the San Francisco-Sacramento Railroad between Oakland and McAvoy. Ripon is on the Southern Pacific Railroad south of Lathrop. The combination carload rate of \$59.50 plus \$1 for sanding the car was charged. The factors composing the combination rate are \$23 to McAvoy and \$36.50 beyond, shown in San Francisco-Sacramento Railroad Tariff 4-E, C. R. C. 50, and Southern Pacific Tariff 645-D, C. R. C. 3118.

Live stock in less than carload lots is subject to the first-class ratings as per Item 7 page 267 of Western Classification No. 59, C. R. C. 37. At the time the shipment in question moved the first-class rate from Moraga to Ripon was 27 cents per 100 pounds, shown in Pacific Freight Tariff Bureau Tariff 34-K, F. W. Gomph's C. R. C. 372; however, this carried a note reading "Will not apply on live stock," therefore the rate applicable on cattle, carload, was assessed.

On August 18, 1927, Pacific Freight Tariff Bureau Tariff 34-L, F. W. Gomph's C. R. C. 405, became effective and the first-class rate of 27 cents per 100 pounds between the points involved in this proceeding was made applicable on live stock in less than carload lots. Complainant bases his plea for reparation upon the rate effective August 18, 1927. Defendants admit the allegation of the complaint and have signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the charges assessed were unreasonable to the extent they exceeded those based on a rate of 27 cents per 100 pounds and weight of 15,000 pounds; that complainant made the shipment as described and paid and bore the charges thereon; that he has been damaged in the amount of the difference between the charges paid and those that would have accrued at the rate herein found reasonable, and that he is entitled to reparation in the sum of \$20.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, San Francisco-Sacramento Railroad Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, J. Souza of Moraga, Contra Costa County, California, all charges they may have collected in excess of 27 cents per 100 pounds on a shipment of cows moved from Moraga to Ripon during December, 1926.

Dated at San Francisco, California, this third day of November, 1927.

DECISION No. 18998.

IN THE MATTER OF THE APPLICATION OF LOS GATOS TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE STOCK.

Application No. 14144.

Decided November 4, 1927.

SECURITIES—STOCK.—Los Gatos Telephone Company authorized to issue, on or before June 30, 1928, \$20,000 of its common capital stock to reimburse treasury on account of surplus earnings invested and to distribute as a stock dividend, and to issue and sell for cash at not less than par, \$20,000 of its common capital stock to pay outstanding notes of \$10,000 and to finance cost of additions and betterments.

F. F. Watkins, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding Los Gatos Telephone Company asks permission to issue 4000 shares of its common capital stock of the aggregate par value of \$40,000. It intends to issue \$20,000 of such stock to reimburse its treasury and thereafter distribute the stock as a stock dividend, and sell \$20,000 at par for the purpose of paying outstanding notes and of financing the cost of additions and betterments to its plants and properties.

The company has outstanding \$50,000 of common stock. It has no bonds and only \$10,000 of notes. From a financial statement, attached to the application as Exhibit "B," it appears that its assets and liabilities, as of September 30, 1927, were as follows:

<i>Assets.</i>	
Fixed capital.....	\$130,496 85
Cash	3,105 45
Accounts receivable.....	2,179 34
Materials and supplies.....	1,480 39
Prepayments	506 47
Total assets.....	\$137,768 50
<i>Liabilities.</i>	
Capital stock.....	\$50,000 00
Premium on stock.....	1,566 00
Notes payable.....	10,000 00
Accounts payable.....	270 00
Accruals	267 48
Other credits.....	662 17
Reserve for depreciation.....	26,354 13
Surplus	48,648 72
Total liabilities.....	\$137,768 50

Applicant reports in its Exhibit 1 that during 1926 it expended \$10,540.05 in making capital additions, consisting of cable and other material for extensions, and labor, costing \$8,254.26, a new distributing frame, together with labor of installation, costing \$1,283.18, and a new P. B. X. switchboard installed at the Lyndon Hotel, costing \$1,002.61. The evidence shows that applicant issued the \$10,000 of notes, shown in the foregoing balance sheet, to pay in part the cost of the additions. The evidence further shows that within the next six months applicant will be called upon to expend, for extensions and other items, the sum of \$9,639.75, exclusive of the labor cost of installation.

This item consists of the following:

700 feet of 400 pair lead covered cable.....	\$630 00
900 feet of 300 pair lead covered cable.....	585 00
4,500 feet of 100 pair lead covered cable.....	1,237 50
12,250 feet of 50 pair lead covered cable.....	1,898 75
6,400 feet of 25 pair lead covered cable.....	576 00
2,000 feet of 3-inch galvanized strand.....	46 00
25,000 feet of 5/16-inch galvanized strand.....	450 00
1,300 3-inch Bonita style cable rings.....	32 50
15,000 2-inch Bonita style cable rings.....	300 00
75 cable arms, complete.....	75 00
50 11 pair unprotected terminals.....	435 00
15 16 pair unprotected terminals.....	168 00
5 16 pair Cook protected terminals.....	112 50
7 26 pair Cook protected terminals.....	213 50
100 butt-treated cedar poles.....	1,050 00
1 model 50—B American cable splicer trailer.....	125 00
1 Graham Bros. one-ton truck.....	1,305 00
Sundry	400 00
Total	\$9,639 75

Permission is asked to use the proceeds from the \$20,000 of stock it now proposes to issue and sell to pay the outstanding notes of \$10,000 and to finance its estimated expenditures which appear to be necessary and desirable to increase and improve its service.

Because of surplus earnings invested in its properties, the company asks permission to issue \$20,000 of stock to reimburse its treasury and distribute the stock to its present stockholders as a stock dividend. It appears to us that both requests may be granted and the order herein will so provide.

ORDER.

Los Gatos Telephone Company having applied to the Railroad Commission for permission to issue \$40,000 of stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that Los Gatos Telephone Company be and it hereby is authorized to issue, on or before June 30, 1928, \$20,000 of its common capital stock for the purpose of reimbursing its treasury on account of surplus earnings invested in applicant's properties, and to issue and sell, on or before June 30, 1928, for cash at not less than par, \$20,000 of its common capital stock for the purpose of paying the outstanding notes of \$10,000 and of financing the cost of the additions and betterments referred to in the foregoing opinion.

The authority herein granted is subject to the following conditions:

1. After reimbursing its treasury with the \$20,000 of stock herein authorized to be issued for such purpose, applicant may distribute such stock, as provided by law, to its stockholders as a stock dividend.

2. Only such expenditures as are properly chargeable to fixed capital accounts as defined by the uniform system of accounts prescribed or adopted by this Commission may be financed through the issue of the stock herein authorized.

3. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this fourth day of November, 1927.

DECISION No. 18999.

HERCULES GASOLINE COMPANY, A CORPORATION,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 2384.

Decided November 4, 1927.

REPARATION.—The Atchison, Topeka and Santa Fe Railway Company directed to refund to complainant, with interest at 6 per cent, all charges collected in excess of three cents per 100 pounds on shipment of refinery tops forwarded from Pozo to Los Angeles.

WORDS AND PHRASES—"REFINERY TOPS."—In the transportation field the term "refinery tops" and "gas oil" are synonymous. (*Gilmore Oil Co. vs. A., T. & S. F. Ry. Co.*, 28 C. R. C. 878.)

B. H. Carmichael and *F. W. Turcott* of Los Angeles and *Glensor, Clewe and Van Dine* of San Francisco, by *Carmichael and Turcott*, for Complainant.
E. W. Camp and *Charles K. Adams*, for Defendant.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the State of California, is engaged in the business of producing, buying, refining, blending and selling petroleum products, including gas oil. By complaint filed June 21, 1927, it is alleged that the rate charged for the transportation of gas oil in carloads moving from Pozo, California, to Los Angeles during the period extending from October 13, 1925, to January 12, 1927, both dates inclusive, was excessive, unjust and unreasonable to the extent it exceeded 3 cents per 100 pounds.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at Los Angeles September 6, 1927, and the case having been duly submitted is now ready for our opinion and order.

The essential facts here for determination are not disputed. The shipments involved, consisting of 303 carloads, moved from Pozo to Los Angeles, a distance of 26 miles, and the charges were assessed rate of 4 cents applicable on petroleum gas oil as published in defendant's Tariff 9777-J, C. R. C. No. 562. The commodity shipped was a petroleum product colloquially referred to as refinery tops, which consist of the first cut or distillation of the crude oil and contain the higher fractional oils, such as gasoline, engine distillate and kerosene. Except in remote cases the rail lines in California have never published specific rates on refinery tops, but have for years applied the concurrently applicable rates on gas oil. We have held in a number of proceedings that in the transportation field the terms "refinery tops"

and "gas oil" are synonymous. (Case No. 2182, *Gilmore Oil Company et al. vs. The Atchison, Topeka and Santa Fe Railway et al.*, 28 C. R. C. 878, and cases cited therein.)

In Case No. 2182, *supra*, we found that the rate of 4 cents maintained by The Atchison, Topeka and Santa Fe Railway for the transportation of gas oil or refinery tops from and to the points here involved was unjust and unreasonable to the extent it exceeded 3 cents, and ordered the latter rate to be established on or before January 13, 1927. The Commission also awarded to the complainant in that case reparation on all shipments moving within the statutory period prior to October 13, 1925, the date the complaint in Case No. 2182 was filed. The Commission's reparation order, however, did not include any shipments moving during the period extending from October 13, 1925, the time the complaint was filed, until January 13, 1927, the date our order became effective, and the instant proceeding is for the purpose of recovering reparation on the shipments moving during the intervening period not covered by the order.

While defendant denied the allegations of the complaint, it interposed no defense at the hearing.

Upon consideration of all the facts of record we are of the opinion and find that the assailed rate was unreasonable to the extent it exceeded the subsequently established rate of 3 cents. We further find that complainant paid and bore the charges on the shipments involved in this proceeding and has been damaged to the extent of the difference between the charges paid and those that would have accrued at the rate herein found reasonable, and that it is entitled to reparation with interest at 6 per cent per annum.

The amount of reparation due can not be determined on this record. Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, The Atchison, Topeka and Santa Fe Railway Company, be and it is hereby authorized and directed to refund to complainant, Hercules Gasoline Company of Los Angeles, with interest at 6 per cent per annum, all charges it may have collected in excess of 3 cents per 100 pounds on the shipments involved in this

proceeding forwarded from Pozo to Los Angeles during the period October 13, 1925, to January 12, 1927, inclusive.

Dated at San Francisco, California, this fourth day of November, 1927.

DECISION No. 19000.

CALIFORNIA PACKING CORPORATION

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 2406.

Decided November 4, 1927.

REPARATION.—Southern Pacific Company directed to refund to complainant all charges collected in excess of $10\frac{1}{2}$ cents per 100 pounds for the transportation of 40 carloads of fresh fruits and vegetables forwarded from Everglade and Hinsdale to Sacramento.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the state of New York, with its principal place of business at San Francisco, California, is engaged in the packing of dried fruits and canned goods. By complaint filed September 1, 1927, it alleges that the rate charged on 40 carloads of fresh fruits and vegetables moved from Everglade and Hinsdale to Sacramento during the period from July 26 to September 22, 1926, inclusive, was unjust and unreasonable to the extent it exceeded a rate of $10\frac{1}{2}$ cents.

Reparation only is sought. Rates are stated in cents per 100 pounds.

Everglade and Hinsdale are on the Sutter Basin branch of the Southern Pacific Company between Knights Landing and Sheffield, 47 and 49 miles respectively from Sacramento.

The third-class rate of $17\frac{1}{2}$ cents shown in Item 30-F of Southern Pacific Company's Tariff 917-D, C. R. C. 2929, was charged. Concurrently there was a commodity rate of $7\frac{1}{2}$ cents from Knights Landing to Sacramento for a haul of 32 miles, also Class C rate of $10\frac{1}{2}$ cents between Sacramento and the points of origin involved in this proceeding.

It is the practice of carriers to establish commodity rates in this territory on fresh fruits, carloads, also on fresh vegetables, carloads, not exceeding the Class C rates.

Effective July 8, 1927, defendant voluntarily established a rate of $10\frac{1}{2}$ cents applicable to the transportation hereinbefore described.

Complainant bases its plea for reparation upon the subsequently established rate.

Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find the rate assailed was unreasonable to the extent it exceeded the subsequently established rate of $10\frac{1}{2}$ cents; that complainant made the shipments as described, paid and bore the charges thereon, and is entitled to reparation in the amount of the difference between the charges paid and those that would have accrued at $10\frac{1}{2}$ cents.

Complainant will submit statement of shipments to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Southern Pacific Company, be and it is hereby ordered and directed to refund to complainant, California Packing Corporation of San Francisco, California, all charges it may have collected in excess of $10\frac{1}{2}$ cents per 100 pounds for the transportation of 40 carloads of fresh fruits and vegetables involved in this proceeding and forwarded during the period from July 26 to September 22, 1926, inclusive, from Everglade and Hinsdale to Sacramento.

Dated at San Francisco, California, this fourth day of November, 1927.

DECISION No. 19005.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES COUNTY WATER WORKS FOR AUTHORITY TO EXERCISE ITS FRANCHISE RIGHT, TO SELL ITS PROPERTIES AND TO DISCONTINUE PUBLIC UTILITY SERVICE, AND OF GARDENA VALLEY WATER COMPANY TO PURCHASE THE SAID PROPERTIES AND TO ASSUME THE SAID PUBLIC UTILITY SERVICE, TO ISSUE BONDS, PRE-FERRED STOCK AND COMMON STOCK IN PAYMENT FOR SAID PROPERTIES.

Application No. 13914.

Decided November 4, 1927.

CERTIFICATE—WATER UTILITY—TRANSFER—SECURITIES.—Los Angeles County
Water Works authorized to exercise franchise rights granted by Los Angeles
37—52641

County. Application to transfer properties to Gardena Valley Water Company, and application of the latter to purchase the properties, assume the service, and to issue bonds and stock, denied without prejudice.

SECURITY ISSUES—FACTORS AFFECTING ISSUANCE—CAPITALIZATION.—The capitalization of properties should bear some relation to their earnings as well as the cost or the value thereof and a form of capitalization which, on its face, seems to preclude the raising of some of the construction funds through the issue of common stock is not in the public interest and should not be authorized.

McAdoo, Neblett and O'Connor, by William H. Neblett, for Applicants.

BY THE COMMISSION.

OPINION.

In this proceeding the Railroad Commission is asked to enter its order authorizing the Los Angeles County Water Works to exercise the rights and privileges granted it by Ordinance No. 906, N. S., of the board of supervisors of Los Angeles County; to sell and transfer its properties to the Gardena Valley Water Company, a new corporation, and to discontinue public utility service. The Commission is further asked to authorize the Gardena Valley Water Company to purchase and operate the properties of Los Angeles County Water Works, to execute a mortgage and/or deed of trust to secure the payment of an authorized bond issue of \$500,000 and to issue \$125,000 of first mortgage 6½ per cent 20-year bonds, \$30,000 of 7 per cent cumulative preferred stock and \$85,000 of common stock for the purpose of acquiring the properties and paying debts of Los Angeles County Water Works and paying for additions and improvements to said properties.

The Los Angeles County Water Works owns and operates a public utility water system serving the unincorporated towns of Gardena and Moneta and adjacent territory in Los Angeles County and also a portion of the city of Los Angeles in the so called "shoestring strip." The service area is bounded on the north by Ballona avenue, on the south by Electric street (182d street), on the west by Arlington street and on the east by Figueroa street. At the end of 1926 there were, according to the record, 1799 services attached to the water system of Los Angeles County Water Works. For the reason that not all of the services are metered, it has been impossible for the company to furnish a record of its water sales. Both the increase in services and the operating revenues indicate an increase in the company's business. The number of services in 1922 are reported at 1242 and the operating revenues at \$22,819; while for 1926 the number of services, as said, are reported at 1799 and the operating revenues at \$37,675.

The estimated historical cost of the properties and the estimated reproduction cost thereof are reported in applicant's Exhibit "F" as follows:

Estimated original cost:

Plant as of December 31, 1926.....	\$246,539 00
Proposed improvements.....	39,100 00
Organization expenses.....	2,500 00

Total \$288,139 00

Estimated reproduction cost:

Plant as of December 31, 1926.....	\$304,792 00
Proposed improvements.....	39,100 00
Organization expense.....	2,500 00

Total \$346,392 00

Less accrued depreciation..... 60,335 00

Estimated reproduction cost less accrued depreciation..... \$286,057 00

If the depreciation annuity is calculated on a 5 per cent sinking fund basis, the amount in the depreciation reserve (applicable to original cost) is reported at \$42,512 and if calculated on 6 per cent basis, \$39,452. The company in its Exhibit No. 2 shows a depreciation reserve of \$29,340.91.

In Decision No. 17208 dated August 11, 1926 (Vol. 28, Opinions and Orders of the Railroad Commission, page 451) it appears that the engineering department of the Commission estimated the original cost of the properties of the company as of December 31, 1925, at \$227,443. Adding the net cost of the additions and betterments installed during 1926 to the \$227,443 makes a total of \$243,933 as compared with the company's estimate of \$246,539.

The analysis of the evidence shows that the net income, that is, the amount available for interest, amortization of debt discount and expense, interest on the depreciation reserve, dividends and surplus is estimated at \$14,500.

Exhibit No. 2 shows that the Los Angeles County Water Works on August 31st had outstanding \$64,500 of common stock, \$40,000 of 6 per cent bonds, and had current liabilities of \$80,635.08, such current liabilities consisting of \$47,821.13 of notes payable and \$32,813.95 of accounts payable. Its current assets are reported at \$11,932.47, which, deducted from current liabilities, leaves net current liabilities of \$68,702.61.

To acquire the properties of Los Angeles County Water Works, pay its debts and provide \$30,000 for additions and betterments, the Gardena Valley Water Company asks permission to issue and sell at 94 and accrued interest \$125,000 of 6½ per cent 20-year bonds, \$30,000 of 7 per cent preferred stock at par, and \$85,000 of common stock, presumably at par. Had the proposed capitalization been outstanding during the current year, the company would earn less than 2 per cent on the \$85,000 of common stock.

While there is no question but that the properties of Los Angeles

County Water Works should be refinanced they should, in our opinion, be refinanced on a basis different from that proposed in this proceeding. Too much emphasis is being placed on the number of times the net earnings of a property may exceed bond interest or dividends on preferred stock. It is just as important, if not more so, to capitalize a property so that it can show reasonable earnings on common stock. The records of this Commission show conclusively that companies which have been able to obtain some of their construction funds from the sale of common stock have been able to sell readily bonds or preferred stock and furnish more satisfactory service.

It should also be remembered that we are not concerned here with a property to be constructed, but with a property which has been in operation for years and that the rates of the Los Angeles County Water Works have only recently been determined by the Commission. It is our conclusion that the capitalization of the properties in question should bear some relation to their earnings as well as the cost or the value thereof, and that a form of capitalization which on its face seems to preclude the raising of some of the construction funds through the issue of common stock is not in the public interest and therefore should not be authorized by this Commission. We therefore believe that this application, in so far as it involves the transfer of properties, the cessation of public utility service, the issue of stocks and bonds, and the execution of a mortgage, should be denied without prejudice.

Los Angeles County Water Works asks permission to exercise the rights and privileges granted to it by Ordinance No. 906 (new series) of the county of Los Angeles. This ordinance permits the company to maintain a system of water pipes under and across certain public highways in said county. A map showing the territory covered by the ordinance has been filed in this proceeding as Exhibit "D." It is alleged that the company at the time it obtained the franchise (August 20, 1923), was not aware that a certificate declaring public convenience and necessity require the exercise of the rights and privileges granted by said franchise would be required. No one appeared to protest the granting of the certificate. It should be understood, however, that the certificate is effective as of the date of the supplemental order referred to in the following order. It should also be understood by Los Angeles County Water Works that it must give satisfactory service throughout the territory covered by the franchise, if it expects this Commission to prevent other utilities from operating in the territory.

ORDER.

Los Angeles County Water Works having asked permission to exercise such rights and privileges as were granted to it by Ordinance

No. 906 (new series) of county of Los Angeles and to sell its properties to Gardena Valley Water Company, and thereafter discontinue public utility service, and Gardena Valley Water Company having asked permission to purchase said properties, to issue \$125,000 of bonds, \$30,000 of 7 per cent cumulative preferred stock and \$85,000 of common stock, and execute a mortgage and/or deed of trust, a public hearing having been held before Examiner Fankhauser and the Commission having considered the evidence submitted and being of the opinion that this application, in so far as it involves the transfer of properties, the discontinuance of public utility service, the purchase of said properties, the issue of said bonds and stocks and the execution of said mortgage and/or deed of trust, should be denied without prejudice, and that Los Angeles County Water Works should be given permission to exercise the rights and privileges granted to it by said Ordinance No. 906 (new series) subject to the conditions expressed in the foregoing opinion and in this order; therefore,

It is hereby ordered, that this application, in so far as it involves the transfer of the properties of Los Angeles County Water Works, the discontinuance of public utility service by said Los Angeles County Water Works, the purchase of said properties and the assumption of public utility service by Gardena Valley Water Company, the issue of \$125,000 of bonds, \$30,000 of 7 per cent cumulative preferred stock, \$85,000 of common stock and the execution of a mortgage and/or deed of trust by said Gardena Valley Water Company, be and the same is hereby denied without prejudice.

The Railroad Commission of California hereby declares that public convenience and necessity require the exercise by Los Angeles County Water Works of the rights and privileges conferred by Ordinance No. 906 (new series) of the county of Los Angeles, adopted August 20, 1923, provided that Los Angeles County Water Works shall first have filed with the Railroad Commission a stipulation duly authorized by its board of directors, declaring that Los Angeles County Water Works, its successors and assigns, will never claim before the Railroad Commission, or any court or other public body, a value for said rights and privileges in excess of the amount actually paid to the county of Los Angeles, as the consideration for the grant of such franchise, which amount shall be set forth in the stipulation, and shall have received from the Railroad Commission a supplemental order declaring that such stipulation has been filed in form satisfactory to the Railroad Commission.

Dated at San Francisco, California, this fourth day of November, 1927.

DECISION No. 19006.

THE CITY OF LOS ANGELES, A MUNICIPAL CORPORATION,

vs.

SOUTHERN CALIFORNIA TELEPHONE COMPANY, A CORPORATION.

Case No. 2343.

Decided November 4, 1927.

SERVICE—TELEPHONE—EXCHANGE AREA.—Southern California Telephone Company ordered to expand its Los Angeles exchange area to include a certain area north of Los Feliz boulevard, termed the Walnut Park District, now a part of the Glendale exchange area.

Milton Bryan and J. L. Ronnow, Deputy City Attorneys of the City of Los Angeles, and *Geo. B. Metcalf*, for the Board of Public Utilities, for the City of Los Angeles, Complainant.

Lawler and Degnan, by *Oscar Lawler*, and *James G. Marshall*, for the Southern California Telephone Company, Defendant.

Bernard Potter and Andrae Nordskog, for the East Hollywood Development Club, interested party.

CARR, Commissioner.

OPINION.

This is a complaint by the city of Los Angeles, the object of which is to secure an order enlarging the exchange area served by the Southern California Telephone Company to include a section lying to the north of Los Feliz boulevard and which is now served from the Glendale exchange of The Pacific Telephone and Telegraph Company.

Public hearings were had on September 7 and 10, 1927, at which the matter was fully presented.

The section which it is sought to have shifted from the Glendale exchange area to the Los Angeles exchange area is situated within the boundaries of the city of Los Angeles and is approximately one-half mile wide and one mile long. This really consists of two sections, that on the southerly end being termed the Walnut Park District, and that on the northerly end the Parkdale District.

The boundaries of the Los Angeles exchange now reach to a point 300 feet north of Los Feliz boulevard. As to the residents and potential telephone users in the Walnut Park District there exists a substantial unanimity of sentiment in favor of Los Angeles service, there being but one subscriber who prefers a continuance of the Glendale service. This district is within the political boundaries of the city of Los Angeles, where Los Angeles telephone service is of considerable moment because it means improved means of communication for police and fire protection. The district is immediately contiguous to that now served by the Los Angeles system and its junction with the Los Angeles exchange area would not work any undue burden on other subscribers to the Los Angeles system. On the whole it is clear that this section at least should be included in the Los Angeles exchange.

Quite a different situation exists in respect to the Parkdale District. Here there exists a sharp division of sentiment among residents and prospective telephone users as between the Los Angeles and Glendale service. The evidence shows that various residents of this district have built up social and business connections with subscribers of the Glendale exchange, such that they object to any change being made. Under all the circumstances the evidence does not justify this district being shifted to the Los Angeles exchange.

While the defendant, in its opposition to the complaint of the city, presented as witnesses various engineers, experts and officials of The Pacific Telephone and Telegraph Company, it saw fit to raise the objection that The Pacific Telephone and Telegraph Company was not a party to the case and hence no order which would be made could affect it. The order will be so framed as not directly to affect The Pacific Telephone and Telegraph Company. If that company subsequently desires to contract its Glendale exchange area so as to conform to the extended exchange area of the defendant telephone company it will be free to make an appropriate application to this end.

I herewith submit the following form of order :

ORDER.

This case being at issue upon complaint of the city of Los Angeles, investigation of the matters and things involved having been made and basing this order on the findings of fact and conclusions contained in the opinion which precedes this order and which is hereby referred to and made a part hereof;

It is hereby ordered, that the Southern California Telephone Company shall expand on or before December 1, 1927, its exchange territory to include therein that certain area within the city of Los Angeles and north of Los Feliz boulevard sometimes called Walnut Park and bounded as follows:

Beginning at a point where the present common boundary of the Los Angeles and Glendale exchanges intersects the common boundary of the cities of Los Angeles and Glendale, 300 feet north of Los Feliz boulevard, and extending in a northerly direction along said common municipal boundary to a point 350 feet south of an extension of the center line of Verdant street, thence in a westerly direction parallel to and 350 feet south of the center line of Verdant street to the point of its intersection with a line 350 feet north of and parallel to Rigali avenue, thence westerly along that line 350 feet north of and parallel to Rigali avenue to a point on the common boundary of the Los Angeles and Glendale exchanges, which is the Los Angeles River, thence along the Los Angeles River in a southerly direction to a point where it intersects the present common boundary of the Los Angeles and Glendale exchanges 300 feet from Los Feliz boulevard, thence along this present common exchange boundary 300 feet from and parallel to Los Feliz boulevard to the point of beginning.

It is hereby further ordered, that Southern California Telephone Company shall file with the Railroad Commission on or before December 1, 1927, in accordance with General Order No. 68, a revised map of

its Los Angeles exchange area which shall include the territory above ordered included therein.

It is hereby further ordered, that Southern California Telephone Company shall make effective on and after December 1, 1927, in the territory above described the rates, rules and regulations effective in its Los Angeles exchange.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of November, 1927.

DECISION No. 19007.

SMART AND FINAL, A CORPORATION,

vs.

ASSOCIATED TELEPHONE COMPANY AND THE PACIFIC TELEPHONE
AND TELEGRAPH COMPANY, CORPORATIONS.

Case No. 2382.

Decided November 4, 1927.

SERVICE—TELEPHONE—FOREIGN EXCHANGE SERVICE.—Associated Telephone Company ordered to extend Long Beach exchange service into the San Pedro and Wilmington exchange area and rates established therefor.

SERVICE—TELEPHONE UTILITIES—FOREIGN EXCHANGE SERVICE.—While in a complaint by an individual the only relief which can be ordered is foreign exchange service to the complainant, defendant telephone utilities should make such service available to the public generally without necessitating a further proceeding before the Commission; otherwise a discriminatory situation will exist.

Louis N. Whealton, for Complainant.

J. E. Biby, for Associated Telephone Company, Defendant.

Lawler and Degnan and *James G. Marshall*, for The Pacific Telephone and Telegraph Company, Defendant.

Ernest Irwin, for California Independent Telephone Association, interested party.

CARR, Commissioner.

OPINION.

Smart & Final Company, wholesale grocers and coffee roasters, with headquarters at Wilmington, in the San Pedro and Wilmington exchange area of The Pacific Telephone and Telegraph Company, seeks foreign exchange service between its place of business and the Long Beach exchange area of the Associated Telephone Company. The Pacific Telephone and Telegraph Company by its answer indicates its willingness to be a party to such service between the two exchanges provided the Associated Telephone Company will consent and cooper-

ate. The latter company, while not flatly refusing to be a party to such a service, urges that a proper case for it is not presented.

A public hearing was held in Long Beach on September 8, 1927, when the matter was submitted.

Foreign exchange service, being direct exchange service from one exchange to a subscriber located in another exchange area, while somewhat new in California, is proving its usefulness and convenience to the public. The evidence in this particular case illustrates its importance. For several years the complainant had such service through facilities provided by the United States Long Distance Telephone and Telegraph Company. In May, 1926, when the complainant moved its place of business from one point in Wilmington to another, this service was withdrawn from it, since which time it has suffered a considerable inconvenience and disarrangement in the conduct of its business. Clearly, the relief asked by the complainant should be granted.

No question is presented here as to rates to be charged for the service desired, complainant stipulating that the matter of rates is a matter of little or no consequence.

To make effective the order requiring foreign exchange service to the complainant requires the establishment of a rate therefor. Sufficient experience is not available to determine with any exactitude either the rate proper to be charged for this class of service, or the various conditions under which it may be given. For the time being and for the purposes of this proceeding the rate fixed will be on the basis of that existing between the Los Angeles and Santa Monica exchanges, conditions prescribed likewise being similar. In the meantime each of the defendant companies will be required to set up monthly in their records and make available to the Commission financial statements of the investment, revenues and expenses appertaining to each Long Beach foreign exchange service furnished in the San Pedro and Wilmington exchange area.

While under the form of this proceeding the only relief which can be ordered is foreign exchange service to the complainant, the defendant companies should make this service available to the public generally without necessitating a further proceeding before the Commission. Otherwise there will exist a discriminatory situation which can not be tolerated.

I submit the following form of order:

ORDER.

This case being at issue upon complaint and answers on file, having been duly heard and submitted by the parties thereto, investigation of the matters involved having been had and basing this order on the findings of fact and conclusions contained in the opinion preceding

this order, which opinion is hereby referred to and made a part hereof;

It is hereby ordered, that The Pacific Telephone and Telegraph Company and the Associated Telephone Company shall extend Long Beach exchange service into the San Pedro and Wilmington exchange area at the rates and under the conditions set forth in Exhibit "A," attached hereto and made a part hereof.

It is hereby further ordered, that The Pacific Telephone and Telegraph Company shall:

1. File with the Railroad Commission on or before October 31, 1927, a schedule of rates and charges for Long Beach exchange service rendered in its San Pedro and Wilmington exchange area, as set forth in Exhibit "A," attached hereto and made a part hereof.

2. Charge and collect for foreign exchange service furnished on and after November 1, 1927, the rates and charges set forth in said Exhibit "A."

It is hereby further ordered, that The Pacific Telephone and Telegraph Company and the Associated Telephone Company each set up in its files for a two-year period monthly records of investment in each Long Beach foreign exchange service in the San Pedro and Wilmington exchange area, together with revenues and expenses appertaining thereto, and shall keep separate records of incoming and outgoing messages to and from such foreign exchange telephone station or trunk line.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fourth day of November, 1927.

EXHIBIT "A."

FOREIGN EXCHANGE RATES.

Exchange Service Schedule No. A-18.

Foreign Exchange Service—San Pedro and Wilmington.

Service.

Applicable to Long Beach exchange service furnished in the San Pedro and Wilmington exchange area.

Rate.

Long Beach exchange service furnished in San Pedro and Wilmington exchange area.

(1) Individual line service.

(a) Station rate:

Each primary station, per month:

Wall set-----Long Beach business individual line, wall set rate
Desk set-----Long Beach business individual line, desk set rate

(b) Mileage rate:

Each primary station, per month--Rate per each $\frac{1}{2}$ mile or fraction thereof

One mile or less-----\$3 00

Next one mile or less-----6 00

All mileage in excess of two miles-----9 00

(c) Each extension station-----Local rate

The total foreign exchange charge is the sum of the charges determined under rates (a), (b) and (c) above.

- (2) Commercial private branch exchange service.
- | | | |
|--|---|------------|
| (a) Switchboard rate | ----- | Local rate |
| (b) Station rate | ----- | Local rate |
| (c) Trunk rate: | | |
| Local trunks | ----- | Local rate |
| Each foreign exchange trunk, per month | ----- | |
| Long Beach rate for first commercial private branch exchange trunk | ----- | |
| (d) Mileage rate: | | |
| Each private branch exchange trunk line per month | ----- | |
| | Per each $\frac{1}{4}$ mile or fraction thereof | |
| One mile or less | ----- | \$3 00 |
| Next mile or less | ----- | 6 00 |
| All mileage in excess of two miles | ----- | 9 00 |

The total foreign exchange charge is the sum of the charges determined under rates (c) and (d) above.

Conditions.

1. The above mileage rate is based on the air-line distance measured between the subscriber's primary station or private branch exchange switchboard and the nearest point on that portion of the common boundary of the Long Beach and San Pedro and Wilmington exchange areas extending from Willow street to the Pacific Ocean.

2. Foreign exchange service will be furnished subject to the same conditions as to its use by others than the subscriber and his representatives which are applicable in other classes of subscriber's telephone service. Joint user service will not be permitted nor will foreign exchange trunk service be provided in connection with private branch exchange switchboards located in hotels, apartment houses or clubs.

3. The phrase, "local rate," as herein used, refers to the Wilmington exchange rates for telephone service.

4. Subscribers to foreign exchange service are required to have service of the exchange from which local service normally would be rendered, on the premises on which foreign exchange service is furnished.

5. The scope of Long Beach exchange service for, and the toll rates to and from, individual line stations or private branch exchange systems connected for foreign exchange service in the San Pedro and Wilmington exchange area will be in accordance with the tariff provisions of the Long Beach exchange for the particular class of service furnished.

6. Extension stations and private branch exchange stations referred to above will be installed on the premises on which the primary station or private branch exchange switchboard is located.

7. Foreign exchange service from the Long Beach exchange will be furnished in the territory of the San Pedro and Wilmington exchange under the following conditions:

(a) The applicant for such service may be required to pay in advance, prior to the installation of the service, an amount equal to the net cost of installing and removing any facilities necessary in connection with the furnishing of such service by the company serving the local exchange.

(b) If the service is retained for a period of one year or more at the same location, the subscriber will be paid the following amounts of money, provided the subscriber retains the service continuously throughout the respective periods for which payments apply, and further provided the subscriber has paid any and all sums due and payable to the company for the service.

On expiration of first year following installation of service, 33 $\frac{1}{3}$ per cent of advance payment.

On expiration of second year following installation of service, 33 $\frac{1}{3}$ per cent of advance payment.

On expiration of third year following installation of service, 33 $\frac{1}{3}$ per cent of advance payment.

In addition to the above payments, interest will be paid on each payment made and on the unpaid balance at the rate of 6 per cent per annum.

(c) Nothing in this rule shall be construed as limiting or in any way affecting the right of the company to collect from the subscriber any other or additional sum of money which may become due and payable to the company from the subscriber by reason of the service furnished or to be furnished hereinafter.

DECISION No. 19009.

IN THE MATTER OF THE APPLICATION OF COLUSA COUNTY TELEPHONE COMPANY, A CORPORATION, FOR AUTHORITY TO PUT IN EFFECT CERTAIN RATES AND CHARGES.

Application No. 13739.

Decided November 4, 1927.

RATES—TELEPHONE—JOINT USER SERVICE.—Colusa County Telephone Company authorized to file and make effective rates for joint user service.

WORDS AND PHRASES—"JOINT USER SERVICE."—The term "joint user service" applies to service furnished another person through the joint use of a subscriber's business flat rate service, including a telephone directory listing of the name of the person receiving such service.

N. C. Steele, for Applicant.

BY THE COMMISSION.

OPINION.

Colusa County Telephone Company, applicant in this proceeding, requests the Railroad Commission to issue its order authorizing applicant to file and make effective a certain rate applicable to joint user service.

A public hearing was held in this matter before Examiner Satterwhite at Colusa on October 20, 1927.

The rate for which authorization is asked applies to service furnished another person through the joint use of a subscriber's business flat rate service including a telephone directory listing of the name of the person receiving such service. This service is furnished generally throughout the State of California at the rate set forth in this application.

No objections were raised at the hearing against the granting of applicant's petition and there appears no good reason why this application should not be granted.

ORDER.

It is hereby ordered, that Colusa County Telephone Company be and it is hereby authorized to charge and collect the rate set forth in Exhibit "A," attached hereto, on and after December 1, 1927, provided such rate be submitted for filing with this Commission on or before November 21, 1927.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this fourth day of November, 1927.

EXHIBIT "A."

EXCHANGE SERVICE SCHEDULE NO. A-6.

Joint User Service—All Exchanges.

Service.

Applicable to joint user service furnished within the exchange area of all exchanges.

Rate.

Each joint user service in connection with:

Individual or party line business flat rate service-----

*Rate per
Month*
\$1 50

Conditions.

1. The applicability of joint user service is determined by the obvious or actual use made of the service.

2. The rate for joint user service includes a listing in the telephone directory and applies in addition to the rates and charges for the facilities and all other service

provided. Joint user service is applicable and is furnished upon applications made by the subscriber as follows:

(a) Applications for the use of the subscriber's service by any individual, firm, company or association occupying jointly or in part the premises on which the private branch exchange switchboard or receiving station is located. The subscriber's facilities or service are not to be extended off the premises to provide joint user service.

(b) Applications for the use of the subscriber's service for another business conducted by the subscriber and differing in character and subject to a different classification from that for which the facilities are provided.

3. In the case of individuals, firms, companies and associations engaged in the same business or profession, utilizing a common reception room with offices opening thereon or adjoining thereto, one of the number may become the subscriber and the remainder joint users. If the individual or members of a firm, company or association file a joint income tax return, that will be accepted as sufficient evidence of a single business, and joint user service is not applicable. Whenever any individual member of a firm, company or association does not substantially participate in the earnings of his fellow members of such firm, company or association, then that fact shall be conclusive evidence that he is a joint user and the joint user rate is applicable.

4. The minimum charge for joint user service shall be the monthly rate, provided that if the service is listed in the telephone directory, it shall be paid for until the end of the directory period unless the joint user vacates the subscriber's premises or the subscriber's service is discontinued or the joint user becomes a subscriber to business service in the same exchange.

DECISION No. 19015.

IN THE MATTER OF THE APPLICATION OF R. W. RASMUSSEN AND B. JAMES, A COPARTNERSHIP, DOING BUSINESS UNDER THE NAME AND STYLE OF R. W. RASMUSSEN & CO., TO SELL AND R. W. RASMUSSEN COMPANY, INCORPORATED, A CORPORATION, TO BUY, CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, AND CERTAIN PHYSICAL PROPERTY, AND OF R. W. RASMUSSEN COMPANY, INCORPORATED, A CORPORATION, TO ISSUE STOCK.

Application No. 14084.

Decided November 4, 1927.

OPERATIVE RIGHTS—SECURITIES—RENEWAL NOTE.—R. Rasmussen and B. James authorized to transfer automotive operative rights and physical properties to Rasmussen & Company, Inc., and the latter authorized to issue \$50,000 of its common capital stock and to assume the payment of not exceeding \$19,467.54 of indebtedness in payment therefor; also to execute a deed of trust and issue its promissory note in the amount of \$3,750 to renew a note of like amount.

Gwyn H. Baker, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding the Railroad Commission is asked to authorize R. W. Rasmussen and B. James, copartners, doing business under the firm name and style of R. W. Rasmussen & Co., to transfer a certificate of public convenience and necessity to R. W. Rasmussen Company, Incorporated, and to authorize R. W. Rasmussen Company, Incorporated, to issue \$50,000 of its common capital stock in payment for the rights and physical properties of R. W. Rasmussen and B. James.

The certificate proposed to be transferred was granted to the copartners by Decision No. 16318, dated March 29, 1926, in Application No. 11576. In that decision the Commission authorized R. W. Rasmussen and B. James, copartners, to operate an auto truck service as a com-

mon carrier of milk, cream and cottage cheese between Oakland, San Francisco, Alameda, Berkeley and Hayward on the one hand, and Hayward, Decoto, Niles, Mission San Jose, Irvington, Newark, Centerville, Alvarado, Gilroy, Salinas, Modesto, Hughson and Patterson and intermediate points on the other hand. The present value of the physical properties to be transferred are set forth in applicant's "Corrected Exhibit B" as follows:

Real estate.....	\$2,500 00
Improvements on real estate:	
Paving and driveways.....	\$870 00
Building and building equipment.....	5,782 63
Gasoline storage system.....	290 00
	<u>6,942 63</u>
Ship equipment, furniture and supplies:	
Garage equipment.....	\$757 18
Office furniture.....	403 54
Spare parts and supplies.....	1,839 28
	<u>3,000 00</u>
Trucks and trailers:	
Wilson 2½ ton.....	\$1,615 00
Kleiber 2½ ton.....	3,373 81
Fageol 3½ ton.....	3,412 84
Fageol 3½ ton.....	3,412 84
Kleiber 2½ ton.....	3,597 51
American La France 2½ ton.....	5,573 54
White 2 ton.....	1,303 75
White 3½ ton.....	2,857 88
Wilson 2 ton.....	1,088 00
White 2½ ton (new).....	5,033 91
Federal 3 ton (new).....	5,698 67
Federal 3 ton (new).....	5,493 17
Waukesha motor (new).....	890 00
Five trailers.....	2,831 20
	<u>46,182 12</u>
Total	<u>\$58,624 75</u>

In addition, there will be transferred to the corporation current assets which, as of October 1, 1927, are reported at \$13,637.50, consisting of cash, \$1,532.12; paid-up insurance, \$1,363; and accounts receivable, \$10,742.38; bringing the total assets to be transferred up to \$72,262.25. It appears, however, that in acquiring the assets, the corporation will assume the payment of indebtedness of \$19,467.54 consisting of outstanding notes, current accounts payable and contracts for the purchase of equipment, as follows:

Note to Oakland Bank.....	\$3,750 00
Notes to Chas. R. Tate.....	1,000 00
Note to B. James.....	1,874 60
Contract to Federal Truck Co.....	2,873 67
Contract to White Company.....	2,480 00
Contract to Truck and Traller Equipment Company.....	266 00
Current accounts payable.....	<u>7,223 27</u>
Total	<u>\$19,467 54</u>

The note to Oakland Bank is dated September 18, 1926, matured September 18, 1927, bears interest at 6 per cent and is secured by a deed of trust on the real estate proposed to be transferred to applicant corporation. It is alleged that there is an understanding with the bank that the original note may stand or may be renewed by the issuance of a new note at any time at the pleasure of either of the parties. The other notes and the contracts are payable within one year after date.

We believe that the assumption by the corporation of the indebtedness should be authorized by the Commission. Because of the reported agreement with the Oakland Bank to renew the \$3,750 note, the order herein, in addition, will authorize the corporation to issue its renewal note for a period of one year. In authorizing the transfer of the certificate of public convenience and necessity, the purchaser is hereby placed on notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not in any respect limited to the number of rights which may be given. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value.

ORDER.

Application having been made to the Railroad Commission for authority to transfer operative rights and to issue stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the application should be granted, as herein provided, and that the issue of the stock is reasonably required for the purposes specified herein and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income;

It is hereby ordered, that R. W. Rasmussen and B. James, copartners, doing business under the firm name and style of R. W. Rasmussen & Co., be and they are hereby authorized to transfer to R. W. Rasmussen Company, Incorporated, the operative rights acquired by them pursuant to Decision No. 16318, dated March 29, 1926, in Application No. 11576.

It is hereby further ordered, that R. W. Rasmussen Company, Incorporated, be and it hereby is authorized to issue \$50,000 of its common capital stock and to assume the payment of not exceeding \$19,467.54

of indebtedness in payment for the operative rights, property and equipment of R. W. Rasmussen and B. James.

It is hereby further ordered, that R. W. Rasmussen Company, Incorporated, be and it hereby is authorized to execute a deed of trust, substantially in the same form as that filed in this proceeding and to issue its promissory note, secured thereby, in the principal amount of not exceeding \$3,750, payable not more than one year after date of this order, with interest at not exceeding 6 per cent per annum, for the purpose of renewing the note of like amount, in favor of the Oakland Bank, which it herein is authorized to assume.

The authority herein granted is subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2. Applicants R. W. Rasmussen and B. James shall immediately unite with applicant R. W. Rasmussen Company, Incorporated, in common supplement to the tariffs on file with the Commission, applicants R. W. Rasmussen and B. James on the one hand withdrawing, and applicant R. W. Rasmussen Company, Incorporated, on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicants R. W. Rasmussen and B. James shall immediately withdraw time schedules filed in their name with the Railroad Commission and applicant R. W. Rasmussen Company, Incorporated, shall immediately file in duplicate in its own name time schedules covering service heretofore given by applicants R. W. Rasmussen and B. James, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants R. W. Rasmussen and B. James, or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicants unless such vehicle is owned by said applicants or is leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. The authority herein granted to execute a deed of trust is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the Auto Stage and Truck Transportation Act and is not intended as an approval of said deed of trust as to such other legal requirements to which said deed of trust may be subject.

7. R. W. Rasmussen Company, Incorporated, shall keep such record of the issue of the stock herein authorized as will enable it to file, within thirty days after such issue, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

8. The authority herein granted to assume the payment of indebtedness will become effective when R. W. Rasmussen Company, Incorporated, has paid the minimum fee prescribed by section 6 of the Auto Stage and Truck Transportation Act, and section 57 of the Public Utilities Act, which fee is \$25.

Dated at San Francisco, California, this fourth day of November, 1927.

DECISION No. 19020.

IN THE MATTER OF THE APPLICATION OF POMONA VALLEY TELEPHONE AND TELEGRAPH UNION AND ONTARIO AND UPLAND TELEPHONE COMPANY FOR AUTHORIZATION TO DISCONTINUE SO-CALLED FREE SERVICE NOW BEING RENDERED BETWEEN THE EXCHANGE SYSTEMS OF POMONA VALLEY TELEPHONE AND TELEGRAPH UNION AND ONTARIO AND UPLAND TELEPHONE COMPANY, AND TO MAKE EFFECTIVE IN LIEU THEREOF STANDARD INTEREXCHANGE RATES AS NOW ON FILE WITH THE COMMISSION FOR THE SERVICE INVOLVED.

Application No. 13308.

Decided November 7, 1927.

SERVICE—TELEPHONE UTILITY—INTER-EXCHANGE RATES.—Pomona Valley Telephone and Telegraph Union and Ontario and Upland Telephone Company authorized to discontinue so-called "free service" between Chino and Ontario-Upland exchange and standard interexchange rates fixed.

SERVICE—TELEPHONE.—The best grade of telephone service can not be given over lines when there are two separate and distinct corporations owning and operating them.

RATES—TELEPHONE—TOLL SERVICE.—There is more certainty of good telephone service being given between two communities if the participating operating companies would receive compensation for each call completed and an expense without revenue when calls are not completed instead of greater expense when more calls are offered.

R. K. Pitzer and Ernest Irwin, for Pomona Valley Telephone and Telegraph Union.

R. C. Homan, for City of Chino.

J. G. Marshall, for Ontario and Upland Telephone Company.

Frank Forester, for Knights of Pythias of Pomona.

A. V. Storer, for merchants of Pomona.

E. H. Jolliff, City Attorney of Ontario, for City of Ontario.

Vincent G. Lucas, for users of telephone service of Ontario and Upland Telephone Company.

J. V. Fugate, for Chino Chamber of Commerce.

Ernest Irwin, for California Independent Telephone Association.

WHITSELL, Commissioner.

38—52641

OPINION.

In this application the Pomona Valley Telephone and Telegraph Union and the Ontario and Upland Telephone Company joined in a request to the Commission for authority to discontinue so-called free service between the telephone systems of the two utilities.

A hearing in the matter was held in the city of Chino on December 17, 1926, and an adjournment was taken until February 15, 1927, when the proceeding was consolidated with Application No. 12863; hearings therewith being held on March 15, 16 and 17, 1927, at Pomona, on which latter date it was submitted for decision.

This same matter was previously before this Commission in Application No. 11480, which was submitted for decision on November 24, 1925.

In its Decision No. 15984, the Commission ordered the discontinuance of the so-called free service on and after March 1, 1926, and the furnishing by The Pacific Telephone and Telegraph Company of "station-to-station" toll service between Chino and the cities of Upland and Ontario at an initial rate of five cents per message.

On February 27, 1926, the Commission received a petition from interested parties in Ontario and Upland requesting a rehearing in the matter, which was granted and a rehearing was held in the city of Ontario on March 15, 1926. In its Decision No. 16316, dated March 29, 1926, the Commission voided and set aside its Decision No. 15984.

Evidence in the present proceeding indicates that the so-called free service was begun about the year 1908 when there were some two hundred subscribers' services connected to the Chino exchange and about the same number to the Ontario exchange. As of March 1, 1927, there were some seven hundred stations connected to the Chino exchange or zone and some four thousand three hundred stations connected to the Ontario and Upland exchanges. The so-called free service is furnished over two metallic lines, one of which is available for Chino to Ontario-Upland calls and the other for Ontario-Upland to Chino calls. Applicants stated that they desired to cut these two lines at the common boundary of the Chino zone and Ontario exchange and to use such several lines for local services. The evidence in this matter is comprehensive in extent, embracing testimony and exhibits by applicants, pleadings made at the hearings by attorneys for protestants and all evidence in Application No. 11480. After submission, briefs were filed by certain of the interested parties.

Tests of the service over the so-called free service lines showed that but 39 per cent of the Chino subscribers and 10.2 per cent of the Ontario and Upland subscribers used the service. Studies for other periods showed that from 1.24 to 2.02 per cent of the total calls originated in Ontario were destined to Chino; 0.45 to 1.21 per cent of the

total calls originated in Upland, which is farther from Chino, were destined to Chino; 6.4 per cent of the total Chino calls were destined to Ontario and 1.8 per cent were to Upland. An exhibit of the Ontario and Upland Company showed that for the period of the test no calls were made to Chino from 55.7 per cent of the Ontario lines and none were made to Chino from 67.4 per cent of the Upland lines. The results show that but a small percentage of the telephone subscribers in Chino, Ontario and Upland avail themselves of this service to any considerable extent.

Studies of the volume of telephone traffic show that Chino has more calls destined to Pomona than to Ontario-Upland, and that the Chino to Upland telephone traffic was very much less in proportion than that to Ontario. The Chino telephone traffic outgoing to the other zones of the Pomona Company is greatest to Pomona and less to Claremont, La Verne and San Dimas, with the decrease in the order given. It should be noted here that the distances between these points increase in the same order.

The original cost and carrying charges of the facilities necessary for this service are borne by all telephone subscribers in these communities for the benefit of the few who use it, and so long as there is no charge per message for the service there appears no feasible plan whereby this result can be changed.

The Pomona Union estimated that the additional circuits necessary for this service would cost it some \$3,600, and it was estimated that the Ontario and Upland Company would be required to expend approximately \$1,800, for additional facilities if more circuits were to be installed. In addition to the first cost of these proposed new facilities there would result increased expenses for maintenance and other operations.

There is reason to believe that the best grade of service can not be given over lines when there are two separate and distinct corporations owning and operating them. In the case before us we find that the Ontario and Upland Company is a part of The Pacific Telephone and Telegraph system and a "Bell" company. The service rendered by this applicant is "manual" in which the call is accepted and completed and the equipment is restored by operators. The Chino service is "auto-manual" in which the calls are accepted and completed by operators by means of machine-switching apparatus and in which the restoration of the connecting apparatus is performed automatically. Many physical operations are different for the two companies and the facility specifications and the operating practices are different. Neither can hope to interfere with the method adopted by the other for handling its share of this divided operation. It will be noted that when

good performance on joint responsibility is found there must be considerable incentive so to perform well. We would feel more certain of good telephone service being given between two communities if the participating operating companies would receive compensation for each call completed and an expense without revenue when calls were not completed instead of greater expense when more calls were offered as is true in the case before us.

Those relatively few Chino and Ontario and Upland subscribers who have used this service in the past should not be greatly inconvenienced since an adequate toll service with small message charge will replace it. A toll service has been and is in effect between these exchanges and has been considerably used. Those subscribers of the two companies residing near the common boundary of the exchanges may be discommoded to some extent yet such a condition might exist on account of any boundary which might be set. The parties to this application should immediately confer with such residents in order to relocate this dividing line so that the greatest number of the subscribers in that locality may be best served.

The Ontario and Upland Company contends that to provide Chino with this so-called free service to Ontario and Upland, while denying it to Claremont and other of the cities of the Pomona Valley Union system, apparently is discrimination. If this be true, the rate applicable for toll service between the exchanges or zones of the Ontario and Upland Telephone Company and the Pomona, Claremont, La Verne and San Dimas zones of the Pomona system should be the same as for toll service between Ontario and Upland exchanges and Chino.

At the present time long distance service between the two systems is rendered by The Pacific Telephone and Telegraph Company and the United States Long Distance Telephone and Telegraph Company at a rate of ten cents per message. In its Decision No. 15984, dated February 11, 1926, in Application No. 11480, the Commission ordered The Pacific Telephone and Telegraph Company to furnish station-to-station toll service between Chino and Ontario and between Chino and Upland and to charge and collect for said service an initial rate of five cents per message. The Pacific Telephone and Telegraph Company and the United States Long Distance Telephone and Telegraph Company are not parties to this proceeding and we will not at this time order them to establish five-cent rates for service between the zones of the Pomona system and the exchanges of the Ontario and Upland Company. The order following will provide that the Pomona Valley Telephone and Telegraph Union and Ontario and Upland Telephone Company shall themselves furnish toll service between each exchange or zone of the one system to any exchange or zone of the other at an initial rate of

five cents per message or, in lieu of this, they may make arrangements with an established toll company or companies to perform this service at this rate. At the time of the establishment of such service at such a rate, the present so-called free service may be discontinued and not otherwise.

We find as a fact that this so-called free service between Chino and the Ontario-Upland exchange should be discontinued for the reason that its continuance would place an undue financial burden upon the great body of subscribers who have no occasion to use the service, and further, on account of the difficulty in rendering such a service in an adequate and satisfactory manner by two utilities with such greatly dissimilar practices and methods of operation.

The decision made in this matter is based upon the conditions existing at this time in the communities affected and it should not be presumed that we are finding that the rate structure for interexchange telephone service and method of assessing costs of such service authorized herein will be properly applicable if or when local conditions are materially changed or the general plan of rendering and charging for intercommunity telephone service is modified.

The following form of order is recommended:

ORDER.

Pomona Valley Telephone and Telegraph Union and Ontario and Upland Telephone Company having made application to the Railroad Commission for an order authorizing the discontinuance of so-called free telephone service between their exchange systems, public hearings having been held, briefs having been filed, and the Commission being now fully advised, and basing its order on the findings of fact contained in the opinion which precedes this order;

It is hereby ordered, that Pomona Valley Telephone and Telegraph Union and Ontario and Upland Telephone Company be and they are hereby authorized to discontinue so-called free telephone service between the exchanges or zones of the first named company and the exchanges or zones of the second company on and after December 1, 1927, subject to the following conditions and not otherwise:

1. The Pomona Valley Telephone and Telegraph Union and the Ontario and Upland Telephone Company shall provide on and after December 1, 1927, station-to-station toll service between each and any exchange or zone of the system of the Pomona Valley Telephone and Telegraph Union and each and any exchange or zone of the system of the Ontario and Upland Telephone Company and charge and collect for such service at an initial rate of five cents per message for an initial period of five minutes and five cents for each five minutes of the overtime period; or,

Pomona Valley Telephone and Telegraph Union and Ontario and Upland Telephone Company in lieu of their establishment and operation of such toll service at such rates as set forth above, may make provision for the establishment and operation of such service by The Pacific Telephone and Telegraph Company and/or the United States Long Distance Telephone and Telegraph Company at the rate set forth above.

2. Pomona Valley Telephone and Telegraph Union and Ontario and Upland Telephone Company shall file on or before November 30, 1927, the rates and charges as in (1) above, except that in the event that said Pomona Valley Telephone and Telegraph Union and Ontario and Upland Company may have made provision for the establishment and operation of such service by The Pacific Telephone and Telegraph Company and/or the United States Long Distance Telephone and Telegraph Company at said rates as set forth above, then such rates and charges shall be filed on or before November 30, 1927, by such company or companies which will operate such service.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this seventh day of November, 1927.

DECISION No. 19025.

IN THE MATTER OF THE APPLICATION OF JOHN RENTZ AND THE CAPITOLA COMPANY FOR AN ORDER PERMITTING JOHN RENTZ TO DISCONTINUE SELLING WATER IN FAVOR OF HIS CUSTOMERS HEREAFTER BEING SUPPLIED BY THE CAPITOLA COMPANY.

Application No. 13791.

Decided November 8, 1927.

SERVICE—WATER—ABANDONMENT—TRANSFER.—John Rentz authorized to discontinue water service in Camp Fairview tract, Capitola, Santa Cruz County, and to transfer distribution system to The Capitola Company.

SERVICE—ABANDONMENT—REASONS FOR—OPERATION AT A LOSS.—It is unfair to require the continuance of water service at a considerable financial loss.

CONSOLIDATION—MERGER AND SALE—GROUNDS FOR ALLOWING OR DENYING—IN GENERAL.—Authorization to abandon service and to transfer a distribution system will be granted, notwithstanding protests made on the ground that the water supply of the purchasing company, being diverted from a stream, is subject to possible contamination and has an unpleasant odor and taste, where tests have shown the water to be free from contamination and harmful bacteria, the supply is chlorinated, and particularly when the vendor utility is operating at a loss.

John Rentz, in propria persona.

Thos. W. Mellon, for The Capitola Company.

BY THE COMMISSION.

OPINION.

John Rentz, owning and operating a small water system serving a subdivision known as Camp Fairview, adjoining Capitola in Santa Cruz County, has applied for authority to discontinue water service and to transfer a portion of the system to The Capitola Company, a corporation, which joins in the application.

A public hearing was held at Capitola before Examiner Satterwhite after due notice thereof had been given to the consumers that they might be present and be heard.

This water system consists of a well, pump, tank and distribution mains supplying about twenty-nine consumers. The evidence shows that applicant Rentz has operated the system for a number of years at a loss; that the present distribution system requires replacement with new and larger mains; that the tank should be raised to give more pressure and that there has been considerable complaint by the consumers regarding low pressure and inadequate service. In order to avoid rebuilding the system and continuing the water service, applicant Rentz desires to sell the distribution system to The Capitola Company for a consideration of \$100, but also wishes to retain the well, pumping plant, tank and that portion of the connecting pipe lines necessary to supply two parcels of property which he owns.

The Capitola Company is a public utility engaged in the business of distributing and selling water and electricity in and in the vicinity of Laurel, Soquel and Capitola and has a four-inch main, a tank and a well installed adjoining the area now served by Rentz. This utility has an ample water supply from Bates Creek and Soquel Creek and is financially able and ready to install a new distribution system of sufficient capacity to provide adequate service to all of the consumers whom Rentz has obligated himself to serve.

The consumers of the Rentz system entered a protest against the transfer of the system to The Capitola Company upon the ground that its water supply is diverted from a stream and subject to possible contamination and that the water is hard and has an unpleasant odor and taste, making it undesirable for domestic use; whereas the Rentz supply is obtained from a well producing a soft water of such good quality that many of the Capitola Company's consumers carry it away in bottles and jugs for drinking purposes. Certain of the protestants also claimed that there was another water system adjoining the Fairview tract which was supplied with water of as good quality as that produced by the Rentz well. According to the testimony, this water was also more desirable than that from the system of The Capitola

Company. However, no representatives of this other water system appeared at the hearing and, as far as the evidence discloses, there is nothing in the record of this proceeding indicating that the owner of the water system referred to above desires or is willing to take over the service of water in the territory now served by Rentz.

Regular tests which have been made of The Capitola Company's water supply by the board of health have all shown the water to be free from contamination and harmful bacteria. As a further precautionary measure, the supply is chlorinated. The testimony indicates that the undesirable taste sometimes present in the water is probably due to moss and vegetable matter in the stream from which the water supply is diverted, which taste could probably be removed by aeration. However, it appears that nothing has been done to remedy this objectionable feature, other than the regular cleaning of the reservoir at the diversion dam.

From a consideration of the evidence, it appears that it would be unfair to require applicant Rentz to continue the service of supplying water at a considerable financial loss and, in view of the fact that The Capitola Company is the only utility that stands ready and willing to supply the area with a dependable water service, it appears that the application should be granted. The Commission suggests, however, that The Capitola Company fully investigate the possibility of utilizing its well on the Fairview tract in supplying water to Rentz' consumers in order that they may be furnished with a quality of water that compares favorably with the present supply. In the meantime, steps should be taken to eliminate, as far as possible, the undesirable features of its present supply.

ORDER.

John Rentz having made application to this Commission for authority to discontinue the service of water to consumers in Camp Fairview tract, Capitola, Santa Cruz County, and to transfer the distribution system to The Capitola Company, a corporation, which joins in the application, a public hearing having been held thereon and the Commission being fully informed in the matter;

It is hereby ordered, that John Rentz be and he is hereby authorized to discontinue the service of water and to transfer to The Capitola Company, a corporation, the distribution system serving consumers in Camp Fairview tract, Capitola, Santa Cruz County, subject to the following conditions:

1. The consideration being paid by The Capitola Company for the property herein authorized to be transferred shall not be urged before this Commission or any other public body as a measure of value of the

properties for the purpose of fixing rates or any purpose other than the transfer herein authorized.

2. The authority herein granted shall apply only to such transfer and discontinuance as shall have been made on or before January 1, 1928, and a certified copy of the instrument of conveyance shall be filed with this Commission by John Rentz within thirty days from the day on which it is executed.

3. Within ten days from the date on which John Rentz actually relinquishes control and possession of the property herein authorized to be sold, he shall file with this Commission a certified statement indicating the date on which such control and possession was relinquished.

4. The authority granted to John Rentz to discontinue service to his consumers shall take effect only if and when all of the consumers now being supplied with water by him are being supplied with water by The Capitola Company, or may be so supplied without interruption, should they so desire.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this eighth day of November, 1927.

DECISION No. 19027.

IN THE MATTER OF THE APPLICATION OF KEY SYSTEM TRANSIT COMPANY, A CORPORATION, FOR AN ORDER READJUSTING RATES AND ESTABLISHING JUST AND REASONABLE RATES FOR THE TRANSPORTATION OF PERSONS AND PROPERTY BETWEEN POINTS ON THE COMPANY'S LINES IN THE STATE OF CALIFORNIA.

Application No. 11329.

Decided November 9, 1927.

RATES—STREET AND INTERURBAN RAILWAY—FERRY.—Rates established for Key System Transit Company. *Traction Division*, one way fare of five cents within zones, ten cents from points within zones to points without zones, weekly transferable ticket between all points within or between zones One and Two, \$1.00; weekly transferable ticket between any and all points on the *Traction Division*, \$1.50; one way fare of five cents daily from 9 a.m. to 4.30 p.m., between all points within or between zones One and Two. *Key Division*, between San Francisco and East Bay District, one way fare of twenty cents; for individual monthly commutation fares, calendar month, good for one round trip daily, except Sunday, \$5.50; commutation fares, calendar month, good for one round trip daily, \$6.00; between San Francisco and Richmond, one round trip daily, \$6.50.

Dunne, Brobeck, Phleger and Harrison, for the Key System Transit Company.

G. V. Shoup and C. W. Durbrow, for the Southern Pacific Company.

W. J. Locke, City Attorney, for the City of Alameda.

Preston Higgins, City Attorney, for the City of Oakland.

E. J. Sinclair, City Attorney, and *John N. Edy*, City Manager, for the City of Berkeley.

D. J. Hall, City Attorney, for the City of Richmond.

O. W. White, for the Town of Hayward.

G. N. Richardson, for the City of Piedmont.

Thomas W. Girby, for the Town of Emeryville.

SEAVEY, *Commissioner*.

OPINION.

On June 27, 1925, Key System Transit Company filed the above entitled application asking for an investigation and order authorizing reasonable fares. During the course of the investigation the need of some immediate financial relief became apparent and on December 31, 1925, the Commission, by Decision No. 15817, authorized interim rates.

Since the issuance of that order the Commission has caused its staff in cooperation with the interested parties to make an extensive and thorough investigation of the facts pertinent to the issues in this proceeding. Numerous public hearings have been held during the course of which the results of these investigations have been placed in evidence together with other evidence by interested parties, and particularly by the applicant.

A summarization and restatement of the important evidence presented would be unduly voluminous, and will, therefore, be omitted from this opinion. After a careful consideration of all the evidence presented, the following findings of fact clearly appear to be justified.

1. The fair value of applicant's property for rate-making purposes in this proceeding may be best measured by the historical reproduction cost of the operative property as shown in Commission's Exhibit No. 15, together with addition of certain allowances, briefly restated as follows:

Historical reproduction cost of operative property as of December 31, 1926.....	\$25,984,357 00
Material and supplies.....	843,000 00
Estimated improvements during 1927.....	2,273,706 00
Rate base.....	\$29,101,063 00

2. The current financial results of operation of applicant's property may be fairly stated as follows:

Operating revenues.....	\$7,790,000 00
Operating expenses, depreciation computed on the 5 per cent sinking fund annuity method, and taxes.....	6,594,921 00
Net income (available for return).....	\$1,195,079 00

3. The current net income of applicant represents a rate of return of 4.11 per cent on the rate base.

4. The reasonable financial requirements of the applicant justify an increase in net income of approximately \$1,000,000.

5. The applicant, Key System Transit Company, and the Southern Pacific Company could, without depriving the public of adequate ser-

vice, eliminate unnecessary duplication of operation of their transbay facilities to the extent of effecting an annual saving of approximately \$400,000. The record does not disclose to what extent the applicant herein would participate in such annual saving of \$400,000.

6. Certain economies in operation can be effected on the street car facilities of applicant, with the cooperation of the communities served, by the use of one-man operation in connection with ground loaders to facilitate traffic, whereby an annual saving of \$296,000 may be effected.

7. The present service is unsatisfactory in certain respects, including comfort and speed, and this fact is a contributing cause of a decline of patronage.

8. Past horizontal fare raises have successively proven insufficient to meet the financial requirements of applicant and it appears reasonable to conclude that the remedy, at the present time, can not be found by the granting of a further horizontal increase in fares.

9. The basic five-cent fare on street car lines has many meritorious advantages and a serious attempt should be made to develop a fare schedule built upon the basic five-cent fare that will meet the reasonable financial requirements of the company.

10. Sufficient accurate and dependable data as to the exact form of satisfactory rate schedules for applicant are not available and that, to secure such information, extensive experimentation should be made in the form, kind, amount and spread of rates for various services of applicant, and any such experimental rates established should be subject to prompt change or elimination whenever it becomes apparent that they are unsatisfactory or against the public interest.

11. That as an initial experiment, rates based upon a modification of the plan tentatively recommended by Commission's chief engineer should be made effective, as follows:

On street car lines.

- (a) A five-cent fare within all points in the area having boundaries indicated by a line along Fortieth street, Moss and Excelsior boulevard, Chicago avenue, Eighth avenue and the Oakland water front.
- (b) A five-cent fare within area between limits of area described in (a) and limits of applicant's existing seven-cent fare zone.
- (c) Not more than two five-cent fares to be charged between any two points within applicant's existing seven-cent fare zone.
- (d) Additional five-cent fare zones to be established outside of existing seven-cent fare zones, provided no such zone shall have a maximum length of ride of less than *three* miles.
- (e) A transferable weekly ticket, good for unlimited use to holder

within the week for which sold, to be sold for \$1, good between any points in existing seven-cent zone.

- (f) A transferable weekly ticket, good for unlimited use to holder within the week for which sold, to be sold for \$1.50, good between any two points and in all zones of applicant's system.
- (g) During the hours from 9 a.m. to 4.30 p.m., daily, a single five-cent fare to be charged between all points within the existing seven-cent zone of applicant.

Transbay lines.

- (a) A twenty-cent one-way fare between San Francisco and any point on the transbay facilities of applicant in the East Bay territory.
- (b) A monthly commutation nontransferable ticket, good for one ride each way daily, except Sundays, between San Francisco and points on the transbay facilities of applicant, to be sold for \$5.50.
- (c) A monthly commutation nontransferable ticket, good for one ride each way daily between San Francisco and points on the transbay facilities of applicant, to be sold for \$6.

12. The earnest and aggressive use of modern merchandising methods on the part of applicant is essential to the success of any fare plan.

ORDER.

The Key System Transit Company having filed the above entitled application for an adjustment of its rates, public hearings having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision;

It is hereby ordered, that applicant be and is hereby authorized and directed to establish within thirty days from the date of this order, upon not less than three days' notice to this Commission and to the general public by filing and posting tariffs in the manner prescribed in section 14 of the Public Utilities Act, and to thereafter maintain and apply the rates and fares prescribed in Exhibit "A," attached hereto and made a part hereof, subject, however, to the following conditions:

(1) The applicant shall file with the Commission monthly reports of such operating and traffic statistics as the Commission may prescribe from time to time, on forms approved by the Commission. Further, upon request, applicant shall furnish copies of said operating and traffic statistics to the duly accredited representative of each community in which the applicant's lines are operated.

(2) The Commission reserves the right to abolish or to modify or change from time to time, by supplemental order herein, the rates and

fares prescribed in said Exhibit "A," and to make such further orders in this proceeding as may be deemed right and proper.

For all other purposes the effective date of this order shall be twenty days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this ninth day of November, 1927.

EXHIBIT "A."

TRACTION DIVISION.

One-way Continuous Passenger Fares.

1. One-way fare five cents between all points within an area designated as Zone 1, having boundaries indicated by an imaginary line extending from the western water front to the vicinity of Fortieth street in one direction and Eighth avenue in the other, more accurately described as follows:

All of the West Eighth, West Twelfth, West Sixteenth and Hollis street lines; the Grove, Telegraph, College and Piedmont at Fortieth street; the San Pablo avenue at Park avenue; the Moss avenue bus at Grand avenue; the Oakland avenue at Santa Clara avenue; the Grand avenue and Lake Shore avenue at Perry street; the Park boulevard at Chicago street; the East Fourteenth street and the East Eighteenth street at Eighth avenue; and the Alameda line at Water and Webster streets.

2. Between all points within the area extending from the outermost boundary limits of Zone 1 but not through Zone 1 in Oakland, Alameda, Berkeley Piedmont, Emeryville, Albany, County Line and San Leandro, hereafter referred to as Zone 2-----5 cents

3. Between all points in Zone 1 on the one hand and on the other all points in Zone 2-----10 cents

4. Between all points in Zone 2 on the one hand and all points in Zone 2 on the other hand when journey is through Zone 1-----10 cents

5. Between San Leandro and Ashland-----5 cents

Ashland and Hayward-----5 cents

County Line and Richmond (east of 20th street)-----5 cents

Richmond (20th street and west) and Pt. Richmond-----5 cents

Richmond (20th street and west) and San Pablo-----5 cents

Richmond (20th street and west) and East Richmond-----5 cents

6. A weekly transferable ticket between all points within or between Zones 1 and 2, good for unlimited use of the holder during the calendar week for which sold-----\$1 00

7. A weekly transferable ticket between any and all points on the Traction Division good for unlimited use of the holder, during the calendar week for which sold-----\$1 50

8. A one-way fare daily during the hours from 9 a.m. to 4.30 p.m. between all points within or between Zones 1 and 2-----5 cents

KEY DIVISION.

One-way Continuous Passenger Fares.

Between San Francisco and Berkeley, Bancroft Way, Northbrae, Albany, Claremont, Piedmont, Broadway, Third avenue and East Eighteenth street, Forty-first avenue, Trestle Glen and intermediate stations—

Adults-----20 cents

Children 5 years of age but under 12 years-----10 cents

Individual Monthly Commutation Fares.

Between San Francisco and Berkeley, Bancroft Way, Northbrae, Albany, Claremont, Piedmont, Broadway, Third avenue and East Eighteenth street, Forty-first avenue, Trestle Glen and intermediate stations—

Calendar month, good for one round-trip daily, except Sunday-----\$5 50

Calendar month, good for one round-trip daily-----6 00

Between San Francisco and Richmond—

Calendar month, good for one round-trip daily-----6 50

DECISION No. 19028.

IN THE MATTER OF THE APPLICATION OF POMONA VALLEY TELEPHONE AND TELEGRAPH UNION, A CORPORATION, FOR AN ORDER AUTHORIZING A REVISION OF ITS RATES FOR TELEPHONE SERVICE.

Application No. 12863.

Decided November 10, 1927.

RATES—TELEPHONE—EXCHANGE AREAS.—Rates fixed for service rendered by Pomona Valley Telephone and Telegraph Union in Pomona, Claremont, La Verne, San Dimas and Chino, and primary rate areas established. Authorization to divide the territory served into several exchange areas and the establishment of interexchange toll service and rates denied.

VALUATION—PARTICULAR TANGIBLES—PROPERTY NOT OWNED.—Although not actually owning a particular plant a telephone utility included such property in its inventory and appraisal in a rate proceeding.

VALUATION—PARTICULAR INTANGIBLES—GOING VALUE—IN GENERAL.—Claimed "present fair value," including a large amount for "going value" which was purported to be made up of organization, cost of securing new subscribers, and interest during preliminary construction, held to be based largely upon hypothetical assumptions which the record failed to adequately justify.

VALUATION—MISCELLANEOUS CHARGES TO CAPITAL—PROPOSED BETTERMENTS.—Contemplated additions and betterments were given proper weight in the consideration of a reasonable rate base.

RATES—TELEPHONE—KINDS AND CLASSES OF RATES—TOLL SERVICE.—As to the division of a telephone area into two or more exchange areas and the establishment of exchange service in each exchange under flat rates, and service between such exchanges on a charge per message or toll basis, it is almost as great an error to adopt such plan prematurely as to fail to apply it at the opportune time.

RATES—TELEPHONE—KIND AND CLASSES—TOLL SERVICE.—Among the factors which should be considered before a final determination is reached to change from flat to toll rates are (1) the extent of the territory served, (2) the extent of the community interest between the several sections and the amount of intracommunity telephone traffic within these communities as compared with the intercommunity traffic, (3) comparison of the cost of service to the majority of the telephone users under the two plans and effect of flat rate plan on charges to the smaller users of the service, (4) consideration of present and proposed method of operating the system.

RETURN—REASONABLENESS—PARTICULAR AMOUNTS.—A telephone utility earning approximately a 5 per cent return is entitled to an increase in rates.

RATES—TELEPHONE—IN GENERAL.—Rates for like grades of telephone service in different districts served by a telephone utility should be the same under the same conditions.

SERVICE—TELEPHONE.—Failure to render a "referred service" when a call is received for the telephone number of a service which has been "temporarily disconnected," resulting in the calling party receiving a "do not answer" report, being unsatisfactory and followed many times by repeated attempts to call the same temporarily disconnected number at added expense to the utility, arrangements should be made for intercepting service in connection with temporarily disconnected services.

WORDS AND PHRASES—"PRIMARY RATE AREA."—The primary rate area in any exchange is the more closely built up section within all parts of which the base rates apply equally and outside of which is the suburban area in which the base rates increased by mileage charges apply.

R. K. Pitzer and Ernest Irwin, for Applicant.

C. R. Stead, for City of Pomona.

W. T. Clarke, for Chino Chamber of Commerce.

R. O. Homan, City Attorney, for City of Chino.
J. T. Brooks, for Business Men's Association of Claremont.
J. T. Marshall, for Ontario and Upland Telephone Company.
Frank Forester, for Knights of Pythias of Pomona.
Fred Whyte and *F. D. Wallenstein*, for Pomona Citizens' Committee and the Chamber of Commerce.
A. V. Storer, for Pomona Valley Merchants' Credit Association.
J. J. Deuel and *L. S. Wing*, for California Farm Bureau Federation and *W. A. Johnstone*.
W. M. Avis, for Pomona Realty Board.
D. G. Arbuthnot and *E. H. Boly*, for the La Verne Chamber of Commerce.
Paul Houghton, for the Claremont Chamber of Commerce.
L. O. Bell, Chairman of the Board of Trustees of the City of Claremont.
O. R. Harford, representative of Chino.
S. H. Park, Mayor of the City of Pomona, for the City of Pomona.
A. Durward, President of the Board of Trustees of La Verne, for La Verne.
Ernest Irwin, for California Independent Telephone Association.

WHITSELL, Commissioner.

OPINION.

In this proceeding, Pomona Valley Telephone and Telegraph Union, sometimes hereinafter termed the Pomona Union, requested an order authorizing a revision of its rates for telephone service, authorizing the division of its territory into several exchange areas and the establishment of interexchange toll service and rates.

The Pomona Union made and submitted to the Commission an appraisal of its property upon which it desires to earn a return by increased rates for exchange service and by toll rates which it desires to make effective in portions of its exchange territory, namely, between its Chino exchange and its other exchanges and between its San Dimas exchange and its other exchanges.

Public hearings in the matter were held in Pomona on November 9 and 10, 1926, and on March 15, 16 and 17, 1927, after its consolidation with Application No. 13308.

History of Pomona Valley Telephone and Telegraph Union.

The first telephone service in the Pomona Valley was established in the year 1886 by means of a toll station of the Sunset Telephone and Telegraph Company, which company extended its operations and later became a part of The Pacific Telephone and Telegraph Company's system. The Pomona Union began service in this territory in September, 1903, and gradually extended its service first into San Dimas and then into Chino in 1910, when the Home Telephone and Telegraph Company's telephone plant at Chino was leased. Central offices were established in Pomona, Claremont, Chino, San Dimas and La Verne. In its Decision No. 161 in Application No. 111, decided July 23, 1912, the Railroad Commission authorized the Pacific Company's withdrawal of local exchange service from the territory. Long distance service to the Pomona Union's customers was thenceforth available over the lines of The Pacific Telephone and Telegraph Company or the United States

Long Distance Telephone and Telegraph Company, at the option of the customer. The Union has experienced a consistent growth and now has more than 7600 stations in service.

General.

This proceeding has been the occasion of widespread interest in the Pomona Valley and a large number of appearances were entered. The proposed establishment of toll service and rates within the territory of the Pomona Union occasioned considerable opposition at the hearings in the matter. Some of the people of Chino were particularly concerned since it was proposed in this application to establish toll service between that city and other points in applicant's exchange territory and, in Application No. 13308, request was made for authority to discontinue the so-called free service between Chino and Ontario. In this proceeding applicant filed fifteen exhibits and the California Farm Bureau presented three exhibits in connection with oral testimony. The investigations of the Commission's engineers and accountants were extensive in character.

Valuation and rate base.

The Pomona Union, at the time of its application, submitted to the Commission an inventory and appraisal of its property based on the so-called "historical reproduction cost" as of January 1, 1924, amounting to \$571,977.81. Although applicant does not actually own the Chino plant, it has included that property in its inventory and its appraisal includes the fixed capital assets of that plant. The inventory was checked by Commission engineers and was found to be reasonably accurate.

Tangible fixed capital accounts were included with organization and franchise intangible accounts in the appraisal submitted. The prices used were those known to have prevailed at the time when the construction was in progress. Land was appraised at present day prices by real estate operators in the several cities in which the parcels were located.

This appraisal was checked by Commission engineers, who submitted a modified appraisal of the property on the historical reproduction cost basis, undepreciated, at a later hearing amounting to \$524,310, less material and supplies.

The Pomona Union also submitted a "Determination of present value," in which the "Reproduction cost" claimed was \$812,283.65 as of September 1, 1926. The "Present fair value" claimed by applicant as of that date was \$729,231.78 and included \$70,166.15 for "Going value," which was purported to be made up of organization, cost of securing new subscribers, and interest during preliminary con-

struction. This appraisal is based largely upon hypothetical assumptions which the record fails to adequately justify.

Using the amount \$524,310, which they had estimated for the property of applicant, the Commission's engineers further estimated an average rate base for the period January 1, 1927, to December 31, 1927, for a full flat rate schedule, as follows:

Estimated historical reproduction cost as of January 1, 1924.....	\$524,310 00
Additions and betterments, January 1, 1924, to December 31, 1926.....	121,440 00
Estimated additions and betterments January 1, 1927, to June 30, 1927	10,000 00
Materials and supplies and working cash capital.....	28,600 00
Total.....	\$684,350 00

Later evidence given in this matter indicated that contemplated additions and betterments to applicant's plant would require a greater expenditure than that set forth above and this is given proper weight in the consideration of a reasonable rate base. After reviewing the valuations submitted and all related evidence before us in this proceeding, I am of the opinion that \$695,000 should be found reasonable as a rate base herein.

Expenses.

Applicant presented an estimate of operating expenses under its proposed rates for the period September 1, 1926, to August 31, 1927, amounting to \$141,098.84. Its estimate under its proposed alternate rates (which are on the flat rate basis) for the same period was \$137,682.24. Commission's engineers estimated applicant's operating expenses for the period January 1, 1927, to December 31, 1927, under the proposed rates to be \$132,700, and under the proposed alternate rates \$128,200.

The time period of the applicant's estimates is different from that used by the Commission's engineers, but in other respects comparisons can be made properly one with the other. It should be noted that evidence introduced at the hearing showed that the Pomona Union had been in error in accounting for certain expenditures in a manner that resulted in incorrectly large maintenance expenses and in book entries which did not show the full value of plant installed. The estimates of the Commission's engineers appear to more nearly reflect that which should be expected in the future under proper allocation of charges of cost of plant placed. It should be noted that the applicant and the Commission's engineers estimated considerably higher expenses under the partial toll plan than under the flat rate plan. I believe that an allowance of \$128,600 for operating expenses for the year 1927 will permit the Pomona Union to properly maintain and operate its system

in an efficient manner under a system of flat rates and that, if partial toll rates were established, such allowance would have to be increased by approximately \$4,000.

Rate plan.

The Pomona Union, in its amended application, among other things, requested authority for the establishment of certain toll interchange services and rates. It was proposed to divide the Pomona exchange into three separate and distinct exchanges, namely, Chino exchange, comprising the city of Chino and certain surrounding territory, San Dimas exchange, comprising San Dimas and vicinity, and Pomona exchange, which would then be made up of the remaining territory and would include the cities of Pomona, Claremont and La Verne and their environs. Exchange service at flat rates was proposed for each of these three exchanges and toll telephone rates for interchange service between them and outside points. The determination of whether or not interexchange toll rates should be established within the present Pomona exchange area is one of the phases of this proceeding seemingly most difficult of solution. Very frequently, due to increase in cost, the rates for service in an exchange approach too nearly the value or fancied value of the service to many users of the service, under which circumstances it may be found more equitable that the area be divided into two or more exchange areas and that exchange service in each exchange be under flat rates and that service between such exchanges be on a charge per message or toll basis. Telephone companies, generally, have held this to be a fundamental principle in rate making. It should be pointed out, however, that it is almost as great an error to adopt this plan prematurely as to fail to apply it at the opportune time. In other words, the particular requirements of the territory under consideration, the effect a change in method of charging for the service may have, and the particular local service conditions must all be studied in a proceeding of this nature. If the reasonable interests of the large majority of the users of the service require that toll rates be established, then the personal interests of the few should give way to such requirement. There is community interest between all localities of a state; in fact, it may be said that community interest exists throughout the country but, of course, in a greater or lesser degree in each case considered; therefore, community interest is not controlling, for there must be some limit to the extent of flat rate telephone service. Among the factors which should be considered before a final determination is reached to change from flat to toll rates are: (1) the extent of the territory served; (2) the extent of the community interest between the several sections and the amount of intracommunity telephone traffic within these com-

munities as compared with the intercommunity traffic; (3) comparison of the cost of service to the majority of the telephone users under the two plans and effect of flat rate plan on charges to the smaller users of the service; (4) consideration of present and proposed method of operating system.

1. *Extent of the territory served.*

The Pomona Union renders telephone service in the five communities of Pomona, Claremont, La Verne and San Dimas in Los Angeles County, and Chino in San Bernardino County, and in their surrounding territories, a district which extends probably fifteen miles in at least one direction. Distances between points in the territory are, therefore, not too great for efficient complete local exchange service, provided other factors are equally as favorable for a unified flat rate service.

2. *Community interest and telephone traffic.*

Considerable testimony was given relative to community interest between the several cities and towns in the exchange territory and relative to the weight of such community interest in the determination of whether or not certain toll rates should be established by the utility.

A review of the evidence in this proceeding, as given in verbal testimony and in exhibits, indicates that there is a considerable telephone traffic among all of the communities of the Pomona Union territory and with those near by. It was indicated in the studies presented that a large per cent of the originating calls in each community studied were intracommunity calls. Quite a large percentage of the outgoing intercommunity calls from Claremont, La Verne and San Dimas were to Pomona. Chino is shown to have a greater number of calls to Pomona, its nearest neighbor in the Pomona area, than to the entire Ontario-Upland exchange by the toll route plus the number of attempts over the so-called free service route. It is also noticeable that the per cent of traffic from San Dimas to La Verne and from La Verne to San Dimas was quite high. A review of the traffic studies presented indicates that the outgoing calls from one of these communities to another decreases somewhat as the distance therefrom increases.

3. *Comparison of cost of service under the two plans.*

The evidence in this case indicates that the amount of the toll revenue account would be increased some \$7,000 or \$8,000 if the interexchange toll rates were introduced into the Pomona Union's territory for service between parts thereof, as requested, and the telephone operating expenses would be increased between \$4,000 and

\$5,000, with a net gain in revenue of possibly \$3,000 over the condition which would obtain under a system of all flat rates. The estimated rate base submitted by applicant for the period September 1, 1926, to August 31, 1927, is greater by approximately \$2,800 for the partial toll plan than for the flat rate plan. In the rate bases estimated by the Commission's engineers for the period January 1, 1927, to December 31, 1927, that for the partial toll plan was the greater by some \$5,300. The schedules of rates attached hereto and marked Exhibit "A" are not so high as to seriously retard telephone development in this utility's territory.

4. *Present and proposed method of operation.*

The Pomona Union's Claremont, Chino, La Verne and San Dimas service is "auto-manual," with no one in attendance at any of the central offices in these districts. Every call from any station in these exchanges is automatically sent over a "control trunk" to the Pomona office, where it is challenged by an operator who, by means of a keyboard and machine equipment, causes the desired connection to be set up, after which she has no further control in the operation, the calling party's disconnect being accomplished automatically. A "control trunk" is used in the operation of such a call until the operator has performed her work in the operation, after which the trunk is released. When the call is for a number in another office, in addition to the momentary use of a "control trunk," an interoffice "talk trunk" is employed until the release of the connection. If the calls from Chino and San Dimas were to be charged for on a message toll basis they would, as now, go to the Pomona office, where, instead of being trunked directly through by means of machine switching equipment, they would be connected through a toll switchboard and there be timed. The character and arrangement of outside facilities and central office equipment in this system are such that the introduction of toll board transmission losses might result in unsatisfactory service conditions. A saving in trunks necessary to carry the traffic might be made only if the use of the service were lessened or if the average holding time were found to be shortened. It seems apparent that the cost of operation and carrying charges in connection with each such toll message would be materially increased over that which would obtain for a flat rate untimed call. It would seem difficult to justify the adoption of toll rates for service under these conditions except other conditions outweigh and require such toll rates. It is possible that local methods of operating in this utility's exchange zones may some time be so changed that territorial arrangements and telephone and industrial development may be so different from the conditions now existing that a modification to a partial or complete toll basis of operation will be

advisable. For some time to come telephone service in the territory of the Pomona Union should be rendered under flat rate schedules.

The decision reached in this matter is based upon the conditions now existing and it should not be presumed that we are finding that this type of rate structure will be suitable if the further development of the art or later performance convinces us that a different basis of rate making can be devised.

Service.

There are some phases of applicant's service which are deserving of commendation and others which can well be improved.

The service operations of the Pomona Union seem to be meeting the requirements of its customers since no complaints of interruptions of its service were received at any hearing in the matter and available trouble records show the trouble performance to be quite satisfactory. No complaint of delay in the completion of orders for service was heard. Maintenance practices of the Pomona Union can be improved by the establishment of schedules of routine inspections and testing of equipment and a rigid adherence to such routine procedures. The utility's over-all service performance appears to be quite creditable.

Rates.

In the applicant's alternative flat rate schedule are set up rates which were different for the same grade of service in different districts. It would appear that the rates for like grades of service in these different districts should be the same under the same conditions and those herein found reasonable are determined upon such a basis. The Pomona Union proposed base rates for business service on one-, two- and four-party lines and residence service on one-, two-, four-, five-, six- and eight-party lines. It is also noticeable that a great majority of the residence services in the city of Pomona are on the ten-party schedule. All eight-party and ten-party service is furnished on a semiselective basis while other services within the several primary rate areas are of the higher grade full selective type. The schedules of rates herein found reasonable will include an eight-party residence rate for the reason that many of the applicant's customers evidently desire a multi-party service. The present ten-party business service in Pomona, La Verne and San Dimas and eight-party business service in Claremont should be discontinued and the rate schedules herein found reasonable will not provide a rate for such services.

Revenue.

The Commission's engineering department has estimated that, under present rates, the Pomona Union would receive a total gross revenue of

\$180,700 for the period from January 1, 1927, to December 31, 1927. Deducting operating expenses, taxes, uncollectibles and other minor items estimated for the year 1927, totaling \$145,700, a net amount for interest and return of \$35,000 remains. This is equivalent to approximately 5 per cent return on the rate base found reasonable in this proceeding. It is apparent that Pomona Union is entitled to an increase in its rates and charges for service which will add an amount to its revenue sufficient to provide a greater return. Pomona Union's income statement estimated for the period January 1, 1927, to December 31, 1927, under the schedule of flat rates set forth in Exhibit "A," attached hereto, is shown in the table following:

Statement of Estimated Income

Under Rates Set Forth in Exhibit "A."

POMONA VALLEY TELEPHONE AND TELEGRAPH UNION

January 1, 1927, to December 31, 1927.

Telephone operating revenue.

Subscribers' station revenue.....	\$178,700 00	
Miscellaneous exchange revenue.....	200 00	
Message tolls and commissions.....	19,300 00	
		\$198,200 00

Telephone operating expenses.

Maintenance expenses	\$63,900 00	
Traffic expenses	34,000 00	
Commercial and general expense.....	30,700 00	
		128,600 00

Net telephone operating revenue.....		\$69,600 00
Uncollectible operating revenue.....	\$1,000 00	
Taxes assignable to operations.....	17,400 00	

Deductions from net operating revenue.....		18,400 00
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Operating income		\$51,200 00
Less rent deductions.....		600 00

Net for interest and return.....		\$50,600 00
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Operating practices.

While the operating instructions and practices of the Pomona Union are generally ample for the guidance of the operating forces in the rendering of a service satisfactory to its customers, it should be noted that no "referred service" is given when a call is received for the telephone number of a service which has been "temporarily disconnected." Failure to do this results in the calling party receiving a "don't answer" report, which is unsatisfactory and which many times is followed by repeated attempts to call the same temporarily disconnected number at added expense to the utility. Reasonable efforts should be made to arrange at an early date for intercepting service in connection with such temporarily disconnected services. In the out-

lying offices no "referred service" is given in connection with changed or permanently disconnected numbers and the same objection obtains as in the case of temporarily disconnected numbers as above mentioned. Information service, as given by this utility, is sufficient in quantity and quality to meet the requirements of the service.

Service observations or samplings of the service are made to a limited extent and in so far as they are representative they indicate no particular fault with the service operations of the Pomona Union; however, the number and scope of these service observations should be extended.

Primary rate areas.

Applicant desires to form primary rate areas in each of five exchange areas or zones as shown on maps submitted at the hearing. The primary rate area in any exchange is the more closely built up section within all parts of which the base rates apply equally and outside of which is the suburban area in which the base rates increased by mileage charges apply. It is to be noted that the primary rate areas as proposed were generally liberal in extent; however, some criticism was voiced at the hearing on account of territory not included in the primary rate areas and requests for changes were made. The boundaries of these primary rate areas were inspected by engineers of the Commission and testimony thereafter given concerning their locations. Some changes should be made in the boundary lines of these primary rate areas as submitted by applicant and maps thereof, as marked Exhibit "B," show the extent of such areas as are herein found reasonable.

Suburban zones.

Applicant submitted a map showing the boundaries of its exchange territory and setting up suburban zones numbered 1, 2 and 3. It appears that the suburban area of this territory should be divided into two suburban zones as shown on the map in Exhibit "C" attached hereto. It appears further that authorization of a change in the boundary of the territory served as requested should not be given in the order of this decision. Changes in the location of dividing lines between Pomona Union's territory and adjacent territories may better be arranged after informal investigations, as suggested in the opinion in Decision No. 19020 in Application No. 13308.

I recommend the following form of order:

ORDER.

Pomona Valley Telephone and Telegraph Union having applied to the Railroad Commission for an order authorizing the revision of its

rates for telephone service, public hearings having been held, the matter having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that the rates now charged by Pomona Valley Telephone and Telegraph Union are unjust and unreasonable in so far as they differ from the rates hereinafter set forth.

Basing its order on the foregoing finding of fact and on such other findings of fact as are set forth in the opinion preceding this order;

It is hereby ordered, that Pomona Valley Telephone and Telegraph Union shall:

1. Charge and collect for exchange telephone service furnished on and after December 1, 1927, the rates and charges shown in Exhibit "A" attached hereto and made a part of this order.

2. Submit to the Railroad Commission for filing on or before November 30, 1927, a schedule of rates and charges as set forth in Exhibit "A" attached hereto.

3. Establish primary rate areas for the Pomona, Claremont, Chino, La Verne and San Dimas zones, as shown on maps attached hereto and made a part hereof as Exhibit "B."

4. Submit to the Railroad Commission for filing on or before November 30, 1927, maps showing the primary rate areas as shown in Exhibit "B" attached hereto.

5. Establish suburban zone areas in the territory served as shown on a map attached hereto and marked Exhibit "C," which is made a part of this order in connection with suburban service to be rendered therein on and after December 1, 1927.

6. Submit to the Railroad Commission for filing, on or before November 30, 1927, a map showing the boundary of the exchange territory served and suburban zones, as shown in Exhibit "C" attached hereto.

7. Discontinue within the entire territory served all rates and exchange services not provided for in the rate schedules shown in Exhibit "A" attached hereto, effective on and after December 1, 1927.

8. Cancel all schedules of rates and services not shown in Exhibit "A" attached hereto, effective December 1, 1927.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this tenth day of November, 1927.

EXHIBIT "A."

RATES.

EXCHANGE SERVICE—SCHEDULE No. A-1.

General service.

Applicable to individual and party line business and residence flat rate service furnished within the several primary rate areas of the entire territory served.

Rate.	Grade of service	Rate per station per month			
		Business service		Residence service	
		Wall set	Desk set	Wall set	Desk set
Each individual line station-----		\$4.25	\$4.50	\$3.25	\$3.50
Each auxiliary line station-----		3.25*	3.50*	---	---
Each two-party line station-----		3.25	3.50	---	---
Each four-party line station-----		2.75	3.00	2.25	2.50
Each eight-party line station-----		---	---	1.75	2.00
Each extension station (with or without bell)----		.75*	1.00*	.50*	.75*

Hand sets are furnished in connection with any of the above grades of service at the wall set rate plus fifty cents (50c*) per month.

Conditions.

(1) A discount of twenty-five cents (25c) is allowed on each of the above rates, except those marked with an asterisk (*), if bill is paid on or before the 15th of the current month.

(2) Individual, auxiliary, two-party and four-party line service will be provided outside the several primary rate areas but within the territory served at the above rates plus mileage charges. Eight-party line service at the above rates is provided within the primary rate areas only. A subscriber's individual, auxiliary, two-party or four-party line station, located outside of a primary rate area, will be served by the company from any central office, at its discretion; however, mileage charges to such subscriber will be based on the distance from his station to the boundary of the nearest primary rate area of the company.

(3) Extension stations at the above rates must be located in the same building as the primary station. For charges for extension stations not so located, see "Mileage Rates," Schedule No. A-4.

EXCHANGE SERVICE—SCHEDULE No. A-3.

Semi-Public Coin-Box Service.

Service.

Applicable to individual line semi-public coin-box service furnished within the Pomona primary rate area.

Rate.

Individual line wall set:

First three messages or less per day-----	\$0.15 per day
All over three messages per day-----	.05 per message

Individual line desk set:

The above rate plus twenty-five cents per month.

Extension stations:

Each extension station without coin-box, with or without bell:	
Wall extension set-----	\$0.75 per month
Desk extension set-----	1.00 per month

Conditions.

(1) The above rates are applicable and the service is available within the Pomona primary rate area only.

EXCHANGE SERVICE—SCHEDULE No. A-4.

Mileage Rates.

Service.

Mileage rates applicable throughout the entire territory served.

Rate.

(1) Within suburban area:

Service.	Rate per each one-quarter mile or fraction thereof per month
Each individual line primary station-----	\$0.50
Each private branch exchange or intercommunicating system trunk line-----	.50
Each battery circuit-----	.50
Each ringing power supply circuit-----	.50
Each two-party line primary station-----	.35
Each four-party line primary station-----	.25

The above rates are based on air-line distances measured between the subscriber's primary station, receiving station, or private branch exchange switchboard and the

nearest point on the boundary of the nearest primary rate area of the company. These rates are applied to the services listed above when subscriber's instrumentalities are located outside the several primary rate areas but within the territory served and are in addition to the other rates applying to those services.

- (2) Within exchange area and off premises where primary station or private branch exchange switchboard is located:

	<i>Rate per each one-quarter mile or fraction thereof per month</i>
Each extension station-----	\$0.50
Each private branch exchange station-----	.50

The above rates are based on route mileage, which is the lineal length of the actual circuit required. These rates are applicable in connection with extension stations, and private branch exchange stations terminated off the premises on which the primary station or private branch exchange switchboard is located, and are in addition to the rate for service on the premises on which the primary station or private branch exchange switchboard is located.

EXCHANGE SERVICE—SCHEDULE No. A-5.

Suburban Service.

Service.

Applicable to suburban party line flat rate service furnished in the suburban area of the entire territory served.

Rate.	<i>Rate per station per month</i>			
	<i>Business service Wall set</i>	<i>Desk set</i>	<i>Residence service Wall set</i>	<i>Desk set</i>
Suburban service, zone one-----	\$2.75	\$3.00	\$2.00	\$2.25
Suburban service, zone two-----	3.25	3.50	2.50	2.75
Extension stations (with or without bell)-----	.75*	1.00*	.50*	.75*

Hand sets are furnished in connection with any of the above grades of service at the wall set rate plus fifty cents (50c*) per month.

Conditions.

- (1) A discount of twenty-five cents (25c) per month is allowed on all rates except those marked with an asterisk (*) if bill is paid on or before the 15th of the current month.
- (2) Suburban service is furnished outside the several primary rate areas but within the territory served. A subscriber to suburban service will be served by the company from any central office at its discretion.
- (3) Zones in which rates for suburban service are applicable are indicated on map filed herewith.
- (4) In no case will the total number of primary stations connected to one circuit exceed ten (10).

EXCHANGE SERVICE SCHEDULE No. A-7 (RATE A).

Commercial Private Branch Exchange Service.

Service.

Applicable to commercial private branch exchange flat rate exchange service furnished within the several primary rate areas of the entire territory served.

Rate.

- (1) Switchboard rate:

Each non-multiple switchboard position with battery and ringing power supply circuits and switchboard telephone:

	<i>Rate per month</i>
30 lines or less-----	\$7.00*
31 to 80 lines-----	10.00*
Over 80 lines-----	13.00*

- (2) Trunk rate:

First both-way trunk line-----	5.25
Each additional both-way trunk-----	4.00*

- (3) Station rate:

Each station, primary or extension, wall set-----	.75*
Each station, primary or extension, desk set-----	1.00*
Each station, primary or extension, hand set-----	1.25*

Conditions.

- (1) A discount of twenty-five cents (25c) per month is allowed on all rates except those marked with an asterisk (*) if bill is paid on or before the 15th of the current month.
- (2) Each private branch exchange system will consist of at least one switchboard position, two (2) trunk lines and four (4) stations, exclusive of the switchboard telephone.
- (3) The switchboards will be provided in standard finish at the time of installation.
- (4) The above rates are applicable to all private branch exchange service except hotel service, which is provided in hotels, rooming and apartment houses or to such portion of buildings in which rooms are let to the public for living quarters.

(5) Stations provided at the above rates are installed on the premises on which the private branch exchange switchboard is located. Stations will be installed off the premises on which the switchboard is located but within the territory served, at the above rates plus route mileage as provided in Exchange Schedule No. A-4, provided the stations are for the use of the subscriber.

(6) Commercial private branch exchange service will be provided outside the several primary rate areas but within the territory served at the above rates plus mileage charges as provided in Exchange Service Schedule No. A-4 (1). A subscriber's commercial private branch exchange located outside the several primary rate areas will be served by the company from any central office at its discretion; however, mileage charges to such subscriber as provided in Exchange Service Schedule No. A-4 (1) will be based on the air-line distance from the private branch exchange switchboard to the boundary of the nearest primary rate area of the company.

EXCHANGE SERVICE SCHEDULE No. A-7 (RATE B).

Hotel Private Branch Exchange Service.

Service.

Applicable to hotel private branch exchange flat rate service furnished within the several primary rate areas of the entire territory served.

Rate.

(1) Switchboard rate:

Each non-multiple switchboard position with battery and ringing power supply circuits and switchboard telephone:

	Rate per month
30 lines or less.....	\$7.00*
31 to 80 lines.....	10.00*
Over 80 lines.....	13.00*

(2) Trunk rate:

First both-way trunk line.....	5.25
Each additional both-way trunk line.....	4.00*

(3) Station rate:

(a) Each station, primary or extension, in guest room:

Wall set25*
Desk set50*
Hand set75*

(b) Each station, primary or extension, not in guest room:

Wall set75*
Desk set	1.00*
Hand set	1.25*

Conditions.

(1) A discount of twenty-five cents (25c) per month is allowed on all rates except those marked with an asterisk (*) if bill is paid on or before the 15th of the current month.

(2) Each hotel private branch exchange system will consist of at least two (2) trunk lines and ten (10) stations, exclusive of the switchboard telephone.

(3) The switchboards will be provided in standard finish at the time of installation.

(4) The above rates are applicable to private branch exchange service furnished to hotels, rooming and apartment houses or to such portion of buildings in which rooms are let to the public for living quarters.

(5) Stations provided at the above rates are installed on the premises on which the switchboard is located. Stations will be installed off the premises where the hotel private branch exchange switchboard is located, within the territory served, at the above rates plus route mileage as provided in Exchange Schedule No. A-3, provided the stations are for the use of the subscriber.

(6) Hotel private branch exchange service will be provided outside the several primary rate areas but within the territory served at the above rates plus mileage charges as provided in Exchange Schedule No. A-3. A subscriber's hotel private branch exchange located outside the several primary rate areas will be served by the company from any central office at its discretion; however, mileage charges to such subscriber as provided in Exchange Service Schedule No. A-3 will be based on the air-line distance from the hotel private branch exchange switchboard to the boundary of the nearest primary rate area of the company.

EXCHANGE SERVICE—SCHEDULE No. A-8.

Intercommunicating Service.

Service.

Applicable to business and residence intercommunicating flat rate exchange service furnished within the several primary rate areas throughout the entire territory served.

Rate.

	Rate per month	
	Business	Residence
First both-way trunk line.....	\$5.25	\$4.25
Each additional both-way trunk line.....	4.00*	3.00*

Rate.

Each station including receiving station, with ten-line switching device, on premises on which receiving station is located:

	<i>Rate per month</i>	
	<i>Business</i>	<i>Residence</i>
Wall set -----	\$2.00*	\$2.00*
Desk set -----	2.25*	2.25*
Hand set -----	2.50*	2.50*

Each station with ten-line switching device not on premises on which receiving station is located but not exceeding 300 feet from receiving station:

Wall set -----	3.00*	3.00*
Desk set -----	3.25*	3.25*
Hand set -----	3.50*	3.50*

Conditions.

(1) A discount of twenty-five cents (25c) per month is allowed on all rates except those marked with an asterisk (*) if bill is paid on or before the 15th of the current month.

(2) Business and residence intercommunicating service will be provided outside the several primary rate areas but within the territory served at the above rates plus mileage charges. A subscriber's intercommunicating system, located outside the several primary rate areas, will be served by the company from any central office at its discretion; however, mileage charges to such subscriber will be based on the air-line distance from the receiving station to the boundary of the nearest primary rate area of the company.

(3) Each business intercommunicating system will consist of at least four stations, including receiving station, and two trunk lines. Each residence intercommunicating system will consist of at least four stations, including receiving station, and one trunk line.

EXCHANGE SERVICE—SCHEDULE No. A-12.**Joint User Service.****Service.**

Applicable to joint user service furnished throughout the entire territory served.

Rate.

Each joint user service in connection with:	<i>Rate per month</i>
Individual business flat rate service-----	\$1.50
Individual business coin-box service (Pomona zone)-----	.50

Conditions.

(1) The applicability of joint user service is determined by the obvious or actual use made of the service.

(2) The rate for joint user service includes a listing in the telephone directory and applies in addition to the rates and charges for the facilities and all other service provided. The rate for joint user service is applicable and the service is furnished upon applications made by the subscriber as follows:

(a) Applications for the use of the subscriber's service by an individual, firm, company or association occupying jointly or in part the premises in which the primary station is located. The subscriber's facilities or service are not to be extended outside the premises to provide joint user service.

(b) Applications for the use of the subscriber's service for another business conducted by the subscriber and differing in character and subject to a different classification from that for which the facilities are provided.

(3) In the case of individuals, firms, companies and associations engaged in the same business or profession, utilizing a common reception room with offices opening thereon or adjoining thereto, one of the number may become the subscriber and the remainder joint users. If the individuals or members of a firm, company or association file a joint income tax return, that will be accepted as sufficient evidence of a single business, and joint user service is not applicable. Whenever any individual member of a firm, company or association does not substantially participate in the earnings of his fellow members of such firm, company or association, then that fact shall be conclusive evidence that he is a joint user and the joint user rate is applicable.

(4) The minimum charge for joint user service shall be the monthly rate, provided that if the service is listed in the telephone directory, it shall be paid for until the end of the directory period unless the subscriber's service is discontinued, or the joint user vacates the subscriber's premises or becomes a subscriber to business service in the same exchange, but in no case shall the charges continue more than six months after the listing has appeared in the directory and has been ordered discontinued.

EXCHANGE SERVICE—SCHEDULE No. A-13.**Public Pay Station Service.****Service.**

Applicable to service from company's nonlisted public telephone stations.

Rate.

Each exchange message-----	\$0.05
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Conditions.

(1) Public telephones will be installed by the company at its discretion, in public locations, to meet the general and transient telephone requirements.

EXCHANGE SERVICE—SCHEDULE No. A-14.*Directory listings.*

Applicable to listings in telephone directory of Pomona Valley Telephone and Telegraph Union.

Listings in the alphabetical section of the telephone directory are intended solely for the purpose of identifying subscribers' telephone numbers as an aid to the use of telephone service. Telephone directories are furnished subscribers to facilitate the use of the service and remain the property of the telephone company and may be collected upon issuance of new directories. Subscribers are entitled, without additional charge, to listings in the alphabetical section of the directory as follows:

Individual line service.....	1 listing
Party-line service, each primary station.....	1 listing
Private branch exchange service including intercommunicating system, each trunk line.....	1 listing

Rate.

Additional listings in telephone directory:	Rate per month
(a) Member of same firm or business, each listing.....	\$0.50
(b) Any individual residing at a residence, listed at the residence, each listing.....	.50
(c) Listing of guest of hotel, each listing.....	.50
(d) Any information in addition to a listing, each line.....	.50
(e) Additional listing for a subscriber whose name may be spelled in more than one way, each additional listing.....	.50

Conditions.

(1) Orders for additional listings must be signed by the subscriber of record, who becomes responsible for the charges therefor.

(2) The charges for additional listings begin with the day they are included in the information records, and when printed in the directory may not be discontinued until the end of the directory period unless the service of the subscriber is previously discontinued except that the additional listing charge will not be continued longer than six months after it has appeared in the directory and has been ordered discontinued.

EXCHANGE SERVICE—SCHEDULE No. A-15.**Supplemental Equipment.***Service.*

Rates applicable to supplemental equipment furnished by the company throughout the entire territory served.

Rate.	Supplemental equipment	Installation charge	Rate per month
(a)	Extension bell	\$1.50	\$0.25
(b)	Extension gong	1.50	.50
(c)	*Cord exceeding six feet in length on desk telephone.....	1.00 plus .10 per ft.	

*Desk telephones are regularly furnished with six-foot cords. The installation charge for cords exceeding six feet in length applies when such cord is requested after the telephone has been installed and on each renewal of such cord in any length. In connection with new installations the charge of ten cents (10c) per foot applies, and the initial charge of one dollar (\$1.00) does not apply. Cords exceeding six feet in length will not be furnished with hand sets.

(d) Head receivers, in addition to regular hand receiver on primary or extension stations:

Single head receiver.....	1.50	.25
Double head receiver.....	1.50	.50

(e) Switching keys:

Cam lever key.....	1.50	.25†
Four-party type key.....	2.00	.50†

†Rate applies only when key is installed in addition to stations. If key is installed in lieu of a station or stations the only charge is for installation and rental of the station or stations which the key replaces.

(f) ‡Jack on same premises as primary station, each..... 1.50 .25

‡Station wiring is terminated on mounted spring jacks at the above rate. One stationary wall, desk or hand set or portable set with cord and plug is allowed for each station line terminated on jacks at the primary station rate. Additional portable sets with cords and plugs will be provided at the extension station rate.

Conditions.

The equipment covered by the above rates is owned and maintained by the company.

EXCHANGE SERVICE—SCHEDULE No. A-18.*Service.*

Applicable to the permanent connection together of two telephone lines at the request of the subscriber.

*Rate.**Rate per month*

Each business primary station.....Individual line business rate
Each residence primary station.....Individual line residence rate

Conditions.

(1) A discount of twenty-five cents (25c) is allowed on each of the above rates as provided in Exchange Service Schedule No. A-1.

(2) All stations connected must be applied for by the same subscriber of record, and shall be for the use of such subscriber on his premises.

(3) Under the above rates signaling, in accordance with the company's standards, for the several stations will be performed as requested by the subscriber.

(4) In no case will more than four (4) stations be permanently connected under this schedule.

(5) In cases where actual or obvious use indicates that the station for which connection to a business primary station is requested is a business extension station, this schedule does not apply, but the regular business extension rate with mileage, if any, does apply.

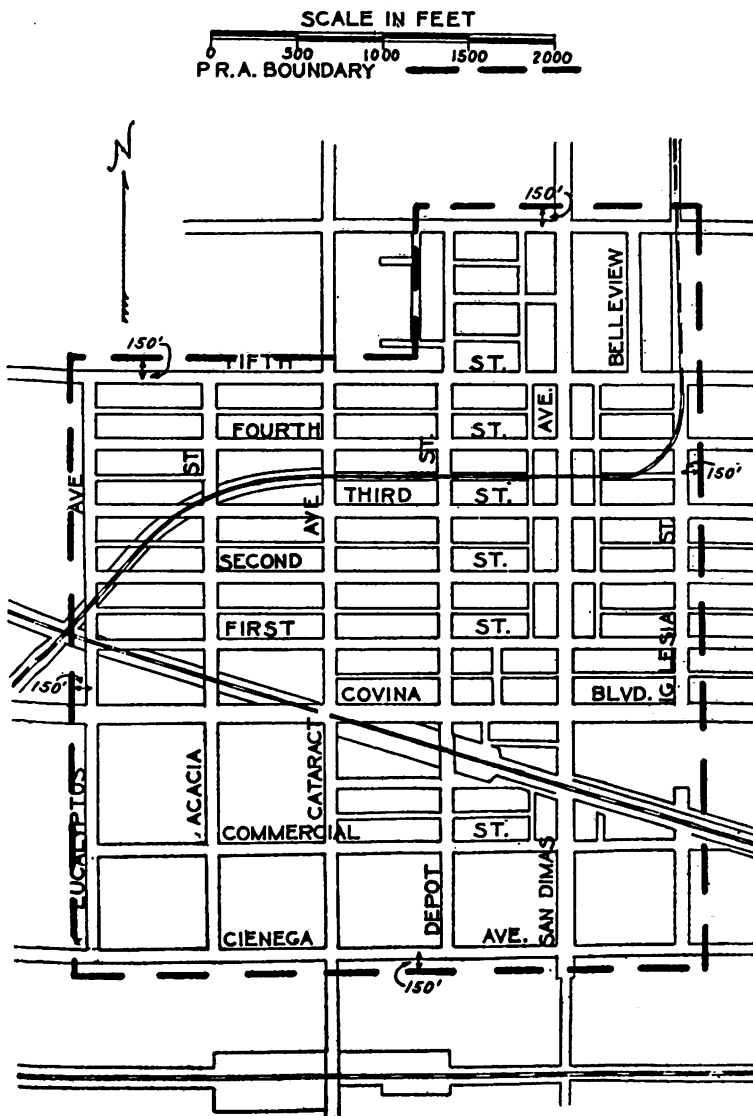
(6) This schedule of rates applies only where the stations to be connected together have service from the same central office.

EXHIBIT "B."

PRIMARY RATE AREAS.

CALIFORNIA RAILROAD COMMISSION

MAP SHOWING
SAN DIMAS PRIMARY RATE AREA
POMONA VALLEY TELEPHONE AND TELEGRAPH UNION

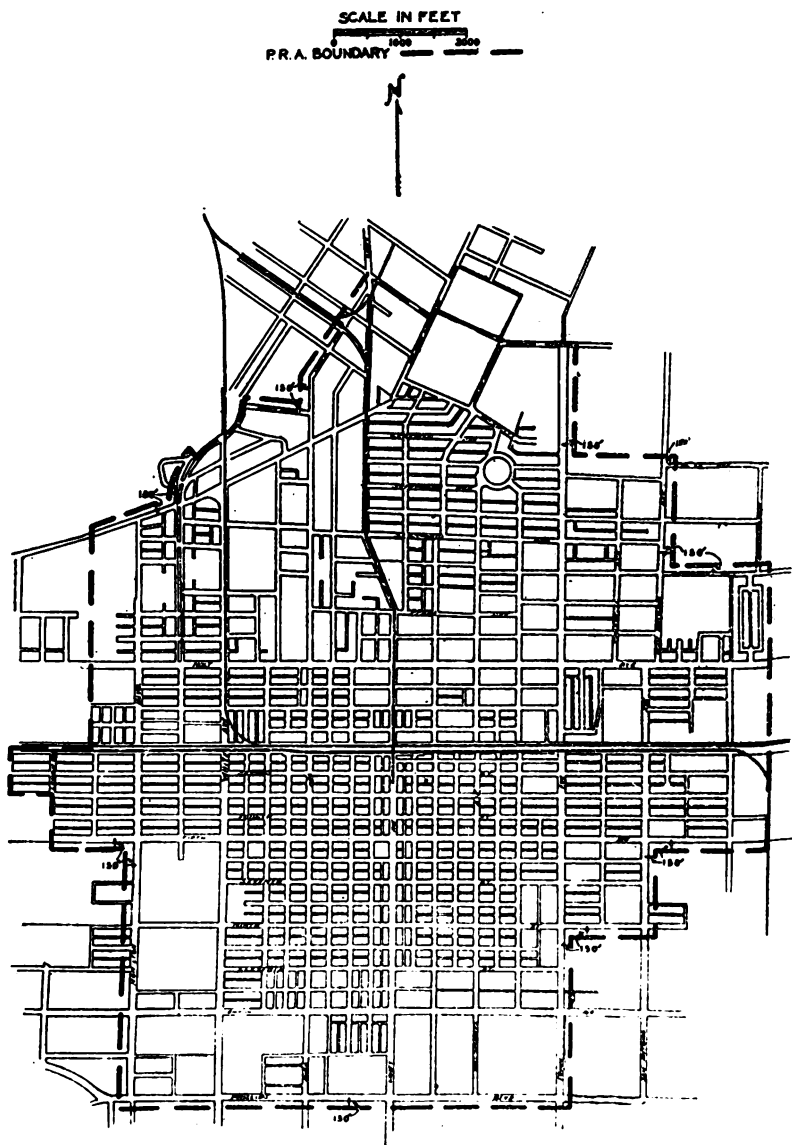


CALIFORNIA RAILROAD COMMISSION

MAP SHOWING

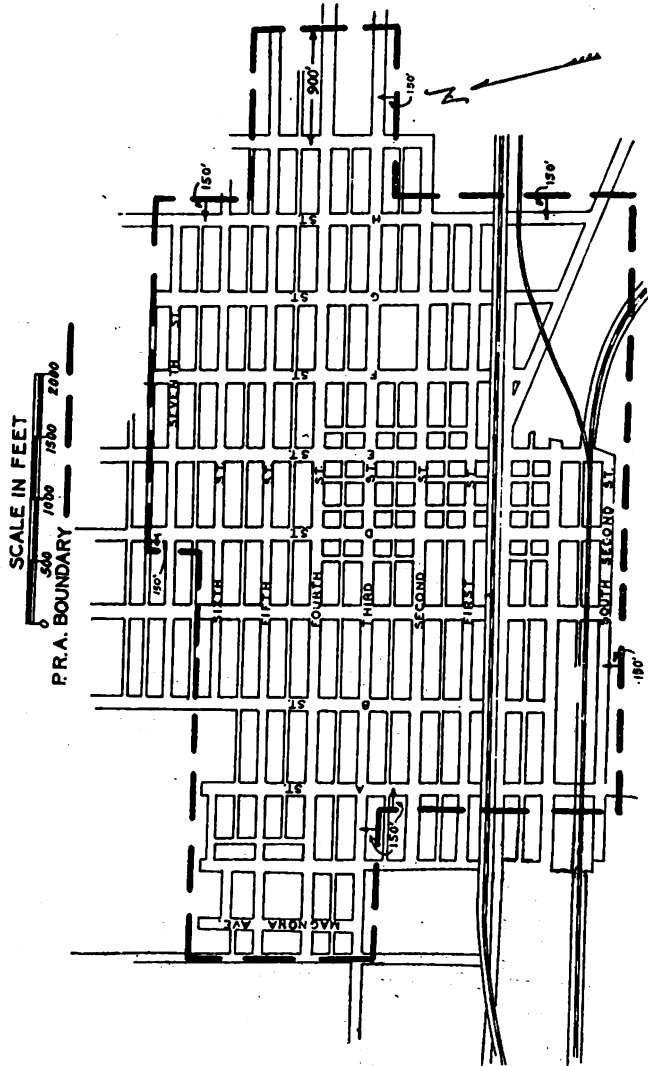
POMONA PRIMARY RATE AREA

POMONA VALLEY TELEPHONE AND TELEGRAPH UNION



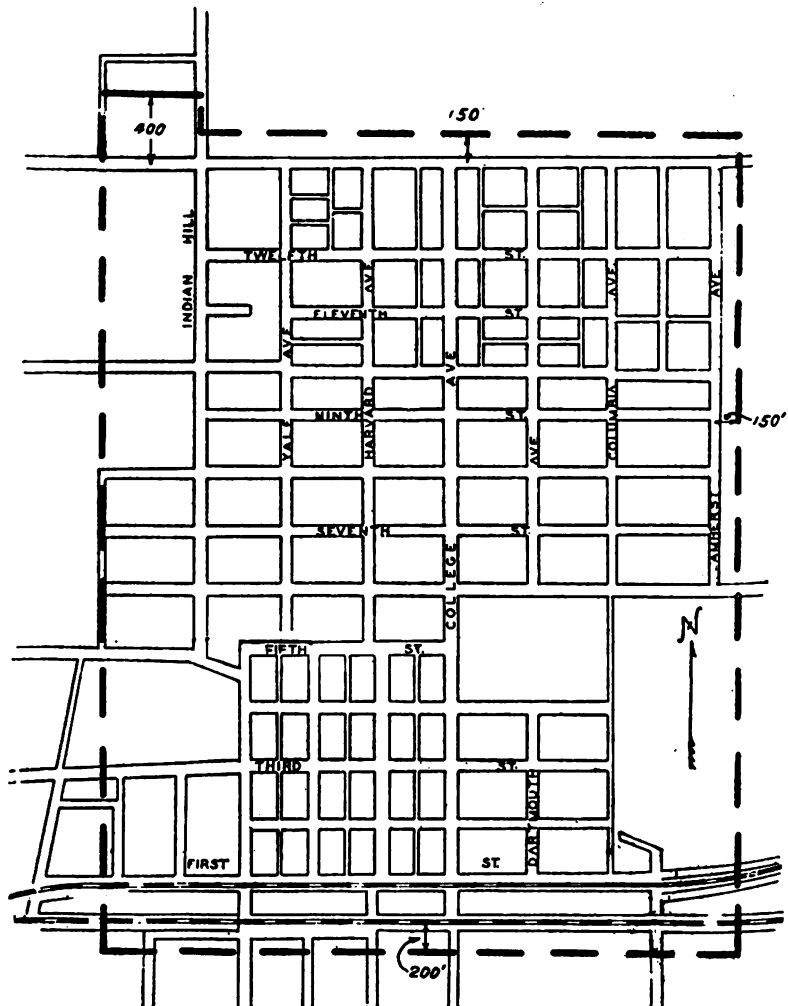
CALIFORNIA RAILROAD COMMISSION

MAP SHOWING
LA VERNE PRIMARY RATE AREA
POMONA VALLEY TELEPHONE AND TELEGRAPH UNION



40-52641

CALIFORNIA RAILROAD COMMISSION

MAP SHOWING
CLAREMONT PRIMARY RATE AREA
POMONA VALLEY TELEPHONE AND TELEGRAPH UNIONSCALE IN FEET
0 500 1000 1500 2000
P.R.A. BOUNDARY

CALIFORNIA RAILROAD COMMISSION

MAP SHOWING
CHINO PRIMARY RATE AREA
POMONA VALLEY TELEPHONE AND TELEGRAPH UNION

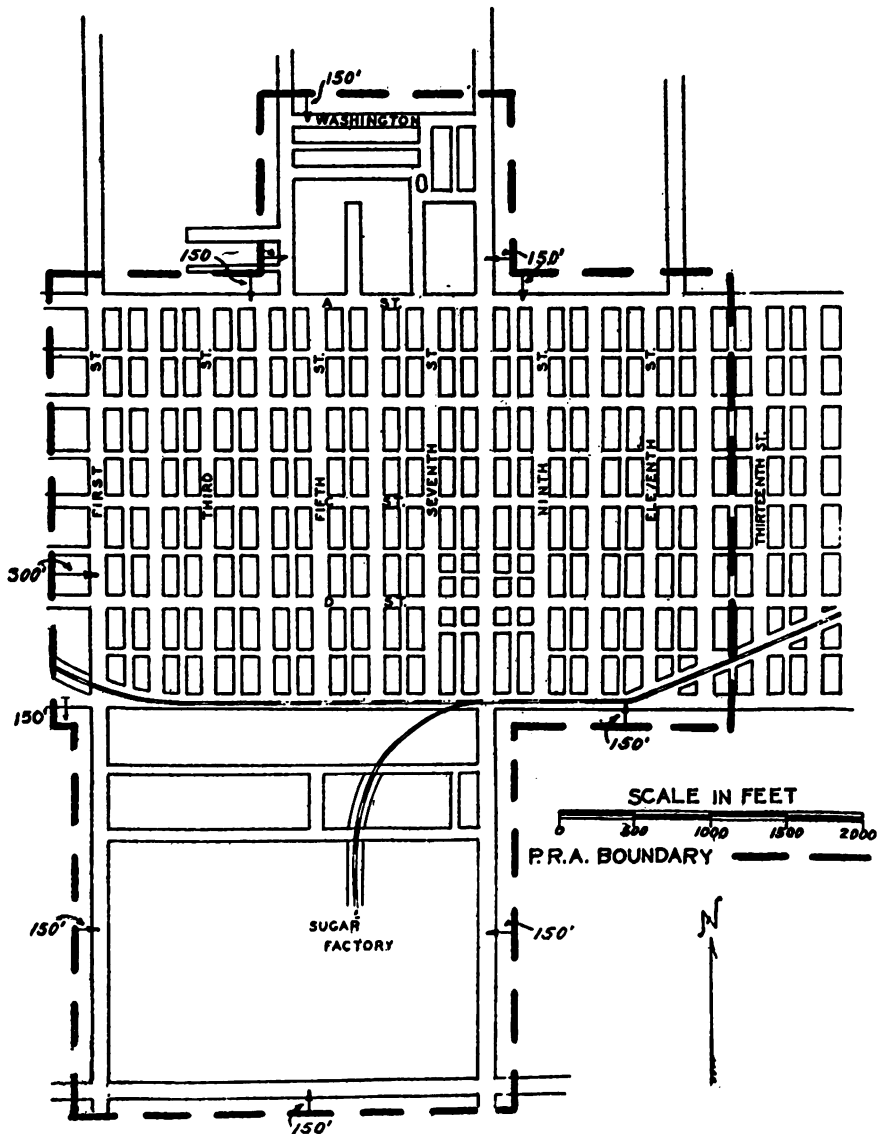
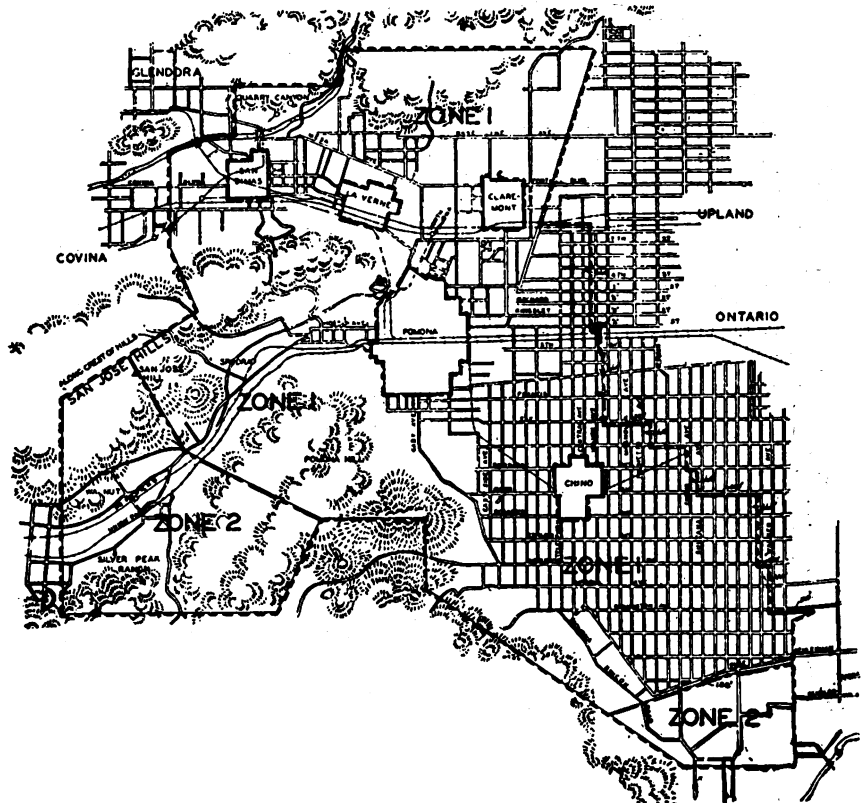


EXHIBIT "C."

SUBURBAN ZONES.

CALIFORNIA RAILROAD COMMISSION
MAP SHOWING
TERRITORY SERVED
AND
SUBURBAN SERVICE ZONE BOUNDARIES
POMONA VALLEY TELEPHONE AND TELEGRAPH UNION
TERRITORIAL BOUNDARY-----
ZONE BOUNDARY-----

SCALE IN MILES
0 1 2 3 4



DECISION No. 19029.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS AND ADEQUACY OF THE REGULATIONS AS SET FORTH IN GENERAL ORDER No. 51, GOVERNING THE CONSTRUCTION AND FILING OF TARIFFS ISSUED BY AUTOMOBILE TRANSPORTATION COMPANIES, AS DEFINED IN CHAPTER 213, LAWS OF 1917.

Case No. 2316.

Decided November 12, 1927.

SCHEDULES AND TARIFFS—AUTOMOTIVE TRANSPORTATION—GENERAL ORDERS.—

General Order No. 51 canceled and two new general orders issued, effective December 1, 1927. General Order No. 79 prescribes uniform rules and regulations governing construction and filing of passenger tariffs by auto stage companies, and General Order No. 80 prescribes such regulations for auto freight carriers.

Earl A. Bagby and *L. G. Markel*, for California Transit Company.

F. J. Coulter, for Motor Carriers Association.

H. G. Weeks, for Los Angeles Railway.

Floyd W. Hanchett, for Pacific Auto Stages.

E. H. Hart, for Interurban Express Company et al.

Warren E. Libby, for Pickwick Stages.

Lewis A. Monroe, for various motor carriers.

William H. Samson, for Motor Transit Company.

C. W. Cornell, for Pacific Electric Railway Company.

BY THE COMMISSION.

OPINION.

This is an investigation on the Commission's own motion into the reasonableness and adequacy of the rules and regulations set forth in General Order No. 51 governing the construction and filing of tariffs issued by automobile transportation companies.

Public hearings were held before Examiner Geary at San Francisco February 23, 1927, and at Los Angeles March 2, 1927, and the matter having been duly submitted is now ready for our opinion and order.

General Order No. 51 was adopted November 6, 1917, and became effective January 1, 1918. It was constructed immediately following the enactment of the Auto Stage and Truck Transportation Act, chapter 213, Statutes of 1917, to meet the requirements of the new statute in so far as it related to the construction and filing of tariffs. Due to the rapid growth of the auto stage and truck transportation industry it has been found necessary to revise and enlarge the present general order to adequately and comprehensively cover the present day operations.

Two general orders are now proposed, one devoted to the construction and filing of freight tariffs and the other to passenger tariffs. Each contains 22 rules, 12 of which deal with tariff construction and 10 with the manner of filing tariffs, applications, concurrences, powers of attorney, etc.

There were only minor suggestions received from the interested parties to the proposed new general orders, and these have received our attention.

After careful consideration of all the facts of record we are of the opinion and find that General Order No. 51 should be canceled, effective December 1, 1927, and that General Orders Nos. 79 and 80, as set forth in Appendixes 1 and 2, should be adopted to become effective December 1, 1927.

ORDER.

This proceeding having been duly heard, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that General Orders Nos. 79 and 80, as set forth in Appendixes 1 and 2, governing the construction and filing of tariffs of passenger stage corporations as defined in section 2½ of the Public Utilities Act, and tariffs of auto truck transportation companies as defined in chapter 213, laws of 1917, respectively, be and they are hereby adopted to become effective December 1, 1927.

It is hereby further ordered, that General Order No. 51, adopted November 6, 1917, and effective January 1, 1918, be and it is hereby canceled, said cancellation to become effective December 1, 1927.

Dated at San Francisco, California, this twelfth day of November, 1927.

APPENDIX No. 1.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

GENERAL ORDER No. 79.

(Cancels General Order No. 51.)

RULES AND REGULATIONS

Issued by the Railroad Commission of the State of California to govern
the construction and filing of Passenger Tariffs issued by
Passenger Stage Corporations.

Adopted November 12, 1927. Effective December 1, 1927.
San Francisco, California.

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PASSENGER TARIFFS.

1. Tariffs issued or reissued must conform to all of these rules. The Commission may direct the reissue of any tariff at any time.

Filing schedules, tariffs and supplements.

Carriers and agents are directed, in filing tariffs in compliance with the statute, to transmit two (2) copies of each tariff, supplement, or other schedule of fares or regulations, for the use of the Commission, both copies to be included in one package and under one letter of transmittal.

Definitions.

(a) The term "local fare" as used herein means a fare that extends over the line of one carrier only and the tariff carrying such fare is a "local tariff."

(b) The term "interdivision fare" as used herein means a fare from a point on one division to a point on another division of the same carrier and the tariff carrying such fare is an "interdivision tariff."

(c) The term "joint fare" as used herein, means a fare that extends over the lines of two or more carriers and the tariff carrying such fare is a "joint tariff."

(d) The term "proportional fare" as used herein means a fare specifically published to be used only as a factor in making a combination through fare and the tariff carrying such fare is a "proportional tariff."

Tariffs must be printed.

2. (a) Tariffs containing five or more pages must be printed on hard calendared paper of good quality from type of size not less than six point full face. Stereotype, planograph or other printing process may be used. Tariffs containing four pages or less may be typewritten, provided all copies are clear and legible. Alterations in writing, or erasures, must not be made in tariffs.

Size and form of tariffs.

(b) Tariffs must be in book, sheet or pamphlet form, not larger than 8 by 11 inches. Loose leaf plan may be used so that changes can be made by reprinting and inserting a single leaf. (See Rule 8.)

Title page shall show name of carrier or agent, C. R. C. number and cancellations.

3. The title page of every tariff shall show :

(a) C. R. C. number of tariff in upper left-hand corner, and immediately thereunder the C. R. C. number of tariffs or supplements canceled thereby. Serial number of carrier may be entered on title

page. Separate serial C. R. C. numbers must be used for freight, express and passenger tariffs.

(b) Name of issuing carrier or agent.

Kind of tariff.

(c) Whether tariff is local, joint, interdivision, proportional, or combination of same, or tariff of rules and regulations.

Territory.

(d) The territory or points from and to which the tariff applies, briefly stated.

Dates.

(e) Date of issue to the left of the page and date effective to the right.

Expiration notice.

(f) The following clause if a tariff or any portion thereof is made to expire on a specified date:

"Expires on _____ unless sooner canceled, changed or extended."

When issued by special permission or order of Commission on less than statutory notice.

(g) On tariff or supplement issued on less than thirty days' notice there must appear a notation that it is issued in compliance with an order of the Railroad Commission of the State of California, in Case No. _____, or Application No. _____, or by Permission No. _____, Date _____, of the Railroad Commission of the State of California.

Notation on excursion tariff.

(h) On every excursion tariff issued under Rule 14: "Issued under authority of Rule 14 of General Order No. 79 of the Railroad Commission of the State of California."

Officer issuing.

(i) Name, title and address of officer by whom tariff is issued.

Tariffs shall contain.

4. Tariffs shall contain, in the order named:

(a) Table of contents: A full and complete statement, in alphabetical order, of the location where information under general headings, by subjects, will be found, specifying page numbers. If a tariff contains so small a volume of matter that the contents is plainly disclosed, the table of contents may be omitted.

Names of participating carriers.

(b) Names of issuing carriers, including those for which joint agent acts under power of attorney, and names of carriers participating under concurrence alphabetically arranged. If there be not more than 10 participating carriers their names may be shown on title page.

Show concurrence form and numbers.

The form and number of the power of attorney or concurrence to the tariff must be shown.

Index of stations.

(c) Alphabetically arranged and complete index of points from and to which the tariff applies and a proper arrangement showing the distance between them.

Reference marks and abbreviations.

(d) Explanation of reference marks and technical abbreviations used in the tariff, except that a special provision applying to a particular fare may be shown in connection with and on the same page with such fare.

Explanation of fare and rules.

(e) Such explanatory statement in clear and explicit terms regarding the fares and rules contained in the tariff as may be necessary to remove all doubt as to their proper application.

Rules governing the tariff.

(f) Rules and regulations which govern the tariff, the title of each rule or regulation to be shown. Under this head the rules, regulations or conditions which affect the fares named in the tariff shall be entered.

Baggage rules. Stopover privileges.

(g) These rules shall include the general baggage regulations, the general rules governing stopover privileges, extension of time on limited tickets, redemption clause, the honoring of tickets that have not been validated, and such other and additional rules as may be desired and authorized, or by proper reference describe the tariff containing such rules.

Side trips.

(h) If side trips for passengers to holders of through tickets are granted, the tariff under which the through ticket is sold must show reference to same.

Routing under tariffs.

(i) The different routes via which tariff applies must be shown, together with appropriate reference to application of fares. When a

tariff specifies routing, the fares may not be applied via routes not specified.

Fare tables.

(j) An explicit statement of the fares in cents or in dollars and cents, together with the names or designation of the points from and to which they apply, all arranged in a simple and systematic manner under proper index numbers. Complicated or ambiguous methods of stating the fares, rules or regulations must not be used.

(k) Tariffs naming fares for excursions may use such terms as "one first class fare for the round trip"; "one first class fare plus \$----- for the round trip." Specific reference by C. R. C. number must be given to the tariff containing such basing fares.

Arrangement of points in local tariffs.

(l) In naming fares in local passenger tariffs, points will be arranged geographically and the points on main line shall appear first in order, followed by points on branch lines diverging from main line. The points on a branch line will be separated from main line and other branch line points by ruled paragraphs.

Head line points.

(m) Points shown at the top of column of fares will be known as "head line points," and each column will be designated by numerals corresponding with side line numbers. Points shown at the side of the columns of fares will be known as "side line points" and will correspond to the head line numerals. The numerals used will correspond to the alphabetical index of points provided for in Rule 4 (c).

Changes to be indicated in tariff or supplement.

(n) Tariff publications or supplements thereto must indicate advances, reductions or changes made in existing fares or charges, rules or regulations, by use of the following uniform symbols throughout the schedule:

Symbols indicating increases and decreases.

(A) To indicate advances; (R) to indicate reductions; (X) to indicate a change resulting in neither an advance or reduction. Clear explanation of the use of distinctive symbols, reference marks and abbreviations must be made in the tariff.

Tariffs must show the end.

(o) At the foot of the last page of a tariff or supplement the words "The End."

Authority for increases in fares or charges must be secured from Commission.

5. (a) Advances in fares or charges or alterations in rules or regulations resulting in advances in fares or charges must not be included in a tariff publication unless previously authorized by the Commission. (See Rule 21.)

Authority for advances must be shown.

(b) Tariffs or supplements containing advances in charges must publish in proper place a notation that the item or fare is issued in compliance with the order of the Railroad Commission of the State of California in Case No.-----, or Application No.-----, or by authority of section 63 of the Public Utilities Act, Authorization No.-----, (Date)-----, of the Railroad Commission of the State of California.

Limiting use of term "common points."

6. The term "all points," or similar terms, must not be used in any tariff for the purpose of indicating the points from or to which fares named therein apply.

7. In case some combination of fares makes a lower fare than the published through fare, such combination is the lawful fare and must be applied. The published through fare must be immediately adjusted.

Amendments and supplements.

8. (a) A change in or addition to a tariff shall be known as an amendment, and, excepting amendments to tariffs issued in loose leaf form, shall be printed in a supplement to the tariff and shall refer to the page, item or index of the tariff, or of previous supplement which it amends.

Cancellation by section numbers.

(b) When the fares in a tariff or supplement are designated by section numbers the cancellation of fares must be under the same section number; for example, Section 10-A cancels Section 10. If a canceled section or any part thereof is taken up and thereafter carried in another section of different number, the cancellation must be carried under the original section number and must show in what section or sections the effective fares are to be found, and the cancellation of the section in the original tariff or supplement must be brought forward in successive supplements as a reissued section as long as the cancellation is in force.

Amended item must be shown in full.

(c) An amended index or item must always be printed in a supplement in its entirety as amended, and the contents in each supplement shall be arranged in the same general order as the tariff which it amends.

Supplement number and cancellations.

(d) Supplements to a tariff shall be numbered consecutively as supplements to that tariff and must not be given separate or new C. R. C. numbers. Each supplement shall specify the supplement or supplements which it cancels, and shall also show on its title page what supplements contain all changes from the original tariff. For example: "Supplement No.-----to C. R. C.-----cancels Supplements Nos.----- and----- Supplements Nos.----- and-----contain all changes from the original tariff."

(e) A supplement which contains reissued items brought forward without change must show the following:

"Reissue: Effective (date upon which item became effective) in Supplement No.-----"

Number of supplements effective at any time.

(f) Except as authorized in Rules 9 (a), 9 (b) and 10 (c), not more than one supplement may be in effect at any time to a tariff of less than five pages; not more than two supplements may be in effect at any time to a tariff containing five and not more than twenty pages, and not more than three supplements may be in effect at any time to a tariff containing more than twenty pages.

Amendments to loose leaf tariffs; no supplement.

(g) All changes in and additions to tariff issued in loose leaf form must be made by reprinting the entire page upon which the change is made. Such pages must not be given supplement numbers but must be designated "First revised page 1 cancels original page 1"; "Second revised page 1 cancels first revised page 1," etc., must show the C. R. C. number of the tariff, the issued and effective dates, and the name, title and address of officer by whom issued, conforming to original pages.

Withdrawal and adoption of tariffs when one carrier is absorbed by another.

9. (a) In case a line is transferred from the operating control of one company to that of another, or when its name is changed, the carrier whose line is taken over shall unite with that other carrier in common supplements to the tariffs on file with the Commission, on the one hand withdrawing and on the other hand accepting and establishing such tariffs and all effective supplements thereto. Such common supplements shall be executed jointly by the traffic officers, owner or agent of both the old and the new carriers. Amendments to such tariffs must be filed in consecutively numbered supplements until the tariffs are reissued. The reissued tariff shall be numbered in the C. R. C. series of the new carrier.

Adoption of tariffs issued by other carriers or joint agents and of concurrences, power of attorney, etc., filed by old carrier.

(b) The new carrier, if it intends to use tariffs issued by other carriers or joint agents under concurrences or powers of attorney granted by the old carrier, shall file and post with C. R. C. number in the form of a supplement an adoption notice reading substantially as follows:

"The (name of carrier) hereby adopts, ratifies and makes its own in every respect as if the same had been originally filed and posted by it, all tariffs, rules, notices, concurrences, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, filed with the Railroad Commission of the State of California by the (name of old carrier) prior to (date) the beginning of its possession. By this notice it also adopts and ratifies all supplements or amendments to any of the above tariffs, etc., which it has heretofore filed with said Commission."

This adoption notice may be made effective and be filed immediately.

Concurrences and powers of attorney of old carrier must be replaced by those of new carrier.

(c) Concurrences and powers of attorney so adopted must, within ninety days, be replaced and superseded by new concurrences and powers of attorney issued by and in the name of the new carrier and in each instance cancelling the concurrence or power of attorney superseded.

Suspension of tariff publications.

10. (a) When the Commission suspends the operation and defers the use of a tariff fare, charge, regulation or practice, the following course shall be pursued by carriers:

Upon receipt of order of suspension the carrier or agent shall immediately file with the Commission a supplement stating that the fare, charge, regulation or practice is under suspension and may not be used until further and proper notice.

When Commission's order of suspension is vacated.

(b) When the Commission vacates an order of suspension, the carrier or agent who published and filed such suspended tariff or supplement shall immediately file with the Commission a supplement stating the date upon which the fare, charge, regulation or practice becomes effective.

Notation on supplement.

(c) Every suspension or vacation supplement issued under authority of this rule must bear on title page the following notation:

"Issued under authority of Rule 10 of General Order No. 79 and in compliance with Order No. _____ of the Railroad Commission of the State of California, of (date) _____, 19____"

Such supplements will not be counted against the number of supplements permitted to such tariff under Paragraph (f) of Rule 8.

Joint agent will use his own C. R. C. serial number.

11. (a) A joint agent duly authorized to act for several carriers must file joint tariffs in the name of the agent or his organization and under C. R. C. serial numbers of his own.

Send copies of joint publications to every participant therein.

(b) The agent or the carrier that issues a joint tariff publication shall at once send copies thereof to each and every carrier that is named as a party thereto.

Carrier must not publish rates conflicting with or duplicating rates published by its agents.

(c) A carrier that grants authority to an agent or to another carrier to publish and file certain of its fares must not in its own publications publish fares that duplicate or conflict with those which are published by such authorized agent or other carrier. This rule will not prevent the filing of joint agent and carrier tariffs.

Rejected tariffs.

12. When a tariff is rejected by the Commission, the records so show and it must not thereafter be referred to nor the number again used except to note on publication that it is issued in lieu of such rejected tariff: "In lieu of-----, rejected by Commission."

Fares prescribed in Commission's decisions must be promulgated in tariffs and Commission notified.

13. Fares prescribed by the Commission in its decisions and orders upon complaints or applications shall, in every instance, be promulgated by the carriers against which such orders are entered in duly published, filed and posted tariffs, or supplements to tariffs. Notice shall be sent to the Commission that its order in Case No.-----, or Application No.-----, has been complied with in Item No.-----page-----of Tariff C. R. C. No.-----, or Supplement to Tariff C. R. C. No.----- Like notice must appear on title page of tariff or in connection with the fares in the tariff. (Rule 3-G.)

Round trip excursion fares.

14. (a) Fares for an excursion limited to a designated period of not more than three days may be established, without further notice, upon posting a tariff one day in advance in two public and conspicuous places in the waiting room of each station where tickets for such excursions are sold, and filing two (2) copies thereof with the Commission.

Fares for an excursion limited to a designated period of more than three days and not more than thirty days, or for a series not exceeding thirty days, may be established upon a like notice of three days.

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Definition of term "limited to a designated period."

The term "limited to a designated period" is construed to cover the period between the time at which the transportation can first be used and the time at which it expires. If tariff names different selling dates for excursions which form a series and the period of time between the first selling date and the last date upon which any tickets sold under the tariff may be used exceeds thirty days, the series of excursions so provided for do not come within the period of "not exceeding thirty days," and such tariff may not be issued by authority of this rule. But it is permissible to establish fares for two or more distinct and separate excursions to various points and for various occasions, each such excursion limited to a designated period of not more than thirty days.

No supplement to tariff under this rule.

(b) No supplement may be issued to tariffs filed under this rule except for the purpose of cancelling the tariff.

Round trip tickets on certificate plan.

(c) Round trip tickets on certificate plan may be issued at reduced fares and their use confined to the delegates to a particular convention or to the members of a particular association or society. The conditions upon which certificate plan tickets are issued is that a specific number of such tickets shall be presented for validation for return trip before the reduced fare for return trip will be granted to any person.

Cancellation must be by authorized agent or by carrier that issued the tariff canceled.

15. An agent who acts under power of attorney is fully authorized to act for the carriers that have named him their agent and attorney, and therefore it is permissible for him to cancel by his tariffs issues of such principals.

A carrier may not by its individual tariff cancel, amend or modify a tariff filed by a duly authorized agent.

Form of appointment of agent.

16. The following form will be used in giving a power of attorney to an agent:

TO BE FILED WITH THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.

(Name of carrier in full)

(Place)

(Date)

Form A. P. 1 No.-----

To the Railroad Commission of the State of California,
San Francisco, California.

This is to certify that the (name of carrier) has made, constituted and appointed and by these presents does make, constitute and appoint (name of

person appointed) its true and lawful attorney and agent for the said company and in its name, place, and stead, (1) for it alone, and (2) for it jointly with other carriers, to file tariffs and supplements thereto, as required of common carriers by regulations established by the Railroad Commission of the State of California thereunder for the period of time, the traffic and the territory now herein named:

And the said (name of carrier) does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully to all intents and purposes as if the same were done and performed by the said company hereby ratifying and confirming all that its said attorney and agent may lawfully do by virtue hereof, and assuming full responsibility for the acts and neglects of its said attorney and agent hereunder.

IN WITNESS WHEREOF, the said company has caused these presents to be signed in its name by its legal executive officer at _____, in the State of California, on this _____ day of _____, in the year of our Lord nineteen hundred and _____.

(Name of carrier)

By _____

(Name of officer)

Attest: _____

(Title of officer)

(Corporate Seal)

Carrier issuing this form will file the original with the Commission and will furnish duplicate to the agent to whom power of attorney is given.

17. Concurrence may be given by a carrier in tariffs issued by another carrier or its agent applying fares to and from its points and via its lines and after the following form:

TO BE FILED WITH THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.

(Name of carrier in full)

(Place)

(Date)

Form A. P. 2 No. _____

To the Railroad Commission of the State of California,
San Francisco, California.

This is to certify that (name of carrier) assents to and concurs in the publication and filing of any passenger fare schedule or supplement thereto which (name of carrier or agent) may make and file, and in which this company is shown as a participating carrier, and hereby makes itself a party to, and bound thereby in so far as such schedule contains fares applying to or from points on its lines, and via its lines, until this authority is revoked by formal and official notices of revocation placed in the hands of the Railroad Commission of the State of California and of the carrier or agent to which this concurrence is given.

(Name of carrier)

By _____

(Name of officer)

(Title of officer)

This form may be qualified to apply to a designated tariff or fare.

Carrier issuing this form will file the original with the Commission and will furnish duplicate to the carrier publishing the tariff.

Number of concurrences and authorizations.

18. (a) Each carrier will assign serial numbers to powers of attorney and concurrences, beginning with No. 1 in each series, as indicated by forms, and continuing in consecutive numbers as to each series.

(b) A power of attorney or concurrence may be revoked by filing notice of such revocation with the Commission and serving same upon carrier to which such concurrence was given. Such notice must specify the date upon which revocation is to be made effective, and must give not to exceed sixty (60) days' notice to the Commission and to the carrier to which concurrence was given.

Quality and size of paper.

(c) All powers of attorney and certificates of concurrence must be printed or typewritten on hard calendared paper 8 by 11 inches in size.

Letter of transmittal.

19. Tariffs filed with the Commission shall be accompanied by a letter of transmittal, on paper 8 by 11 inches in size, and to the following effect:

Form.

FORM.

(Name of Carrier)

-----Department.

(Place)

(Date)

To the Railroad Commission of the State of California,
San Francisco, California.

Accompanying schedule is sent for filing in compliance with Rule One of General Order No.-----, issued by-----, bearing C. R. C. No.----- or Supp. No.----- to C. R. C. No.----- Effective-----, 19-----, and is concurred in by all carriers named therein as participants under concurrences or authorizations now on file with the Railroad Commission of the State of California.

(Signature of carrier or agent)

A separate letter may accompany each schedule, or the form may be modified to provide for filing under one letter as many schedules as can be conveniently entered.

NOTE.—If receipt for accompanying schedule is desired, the letter of transmittal must be sent in duplicate, and one copy will be stamped and returned as receipt.

Fare changes on less than thirty days' notice.

20. Unless otherwise authorized by the Commission, no change shall be made in any fare, charge, regulation or practice, except after thirty days' notice to the Commission and to the public. The Commission, for good cause shown, may permit such changes on less than statutory notice. This authority will be exercised only in cases where actual emergency and real merit are shown.

Application to Commission.

Applications for this permission, duly verified, shall be addressed to the Railroad Commission in the form appended to this rule and must be over the signature of an executive officer, specifying title, or any agent to whom power of attorney has been given.

FORM

PRESCRIBED BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, FOR APPLICATION TO CHANGE A FARE OR RULE, OR FARES OR RULES, ON LESS THAN THE STATUTORY THIRTY DAYS' NOTICE.

(Name of Carrier)

(Place)

(Date)

To the Railroad Commission of the State of California,
San Francisco, California.

The

(Name of carrier)

by

(Name of officer)

(Title of officer)

hereby applies under Section 15 of the Public Utilities Act, for an order granting permission to put in effect _____ days after publication and filing with the Commission, the following fare or rule, or fares or rules:

(State fully the proposed fare or rule, or fares or rules or regulations. Reference may here be made to exhibit showing information required.)

The proposed fares are intended to be published in Tariff C. R. C. No. _____, and will supersede and take the place of fares now in effect from and to the points above named, which are set forth in C. R. C. No. _____, on file with the Commission and which fares are as follows, to wit:

(Here name the present fare or rules or regulations. Reference may here be made to exhibit showing information required.)

This application is based upon the following special circumstances and conditions:

(State fully all the circumstances and conditions which are relied upon as justifying the application, and if based upon fares in effect via other lines, specific reference should be given to the C. R. C. numbers of the tariff of such

other line or lines. Reference may here be made to exhibit showing information required.)

(Name of carrier)

By (Name of officer)

(Title of officer)

Subscribed and sworn to before me this
day of, 19--

Notary Public in and for the County
of, State of

(Name and address of attorney, if any)

Fare increases on less than 30 days' notice.

Fares, charges, regulations or practices published under authority of this rule, must carry the following notation: "Published on days' notice under authority of the Railroad Commission of the State of California, No. 15 of (date)." "

Application to Commission. Over whose signature.

21. Applications for authority to increase charges (see Rule 5) duly verified, shall be addressed to the Railroad Commission in the form set forth below and over the signature of an executive officer, specifying title, or any agent to whom power of attorney has been given.

FORM

PRESCRIBED BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA FOR APPLICATION FOR PERMISSION TO INCREASE FARES, OR TO ALTER RULES OR REGULATIONS SO AS TO EFFECT INCREASES IN FARES.

(Name of Carrier)

(Place)

(Date)

To the Railroad Commission of the State of California, San Francisco, California.

The (Name of Carrier)

By its (Name of Officer) (Title of Officer)

hereby applies under authority of Section 63 of the Public Utilities Act for an order granting permission to establish the following fares (or rules or regulations):

State fully the proposed fares (or rules or regulations). Reference may here

 be made to exhibit showing required information.

The proposed changes are advances or result in advances over the present fares concurrently in effect from and to the same points, and which are as follows:

 Here state fully the present fares (or rules or regulations). Reference may here be made to exhibit showing required information.

 This application is based upon the following special circumstances and conditions which are relied upon as justifying the proposed changes which result in advances.

 Here state fully all reasons for the proposed advances so that the Commission may clearly see the justification therefor.

 (Name of carrier.)

By -----
 (Name of officer.)

 (Title of officer.)

Subscribed and sworn to before me this
 ----- day of -----, 19-----

 Notary Public in and for the County
 of -----, State of -----

 (Name and address of attorney, if any)

Fares, charges, regulations or practices published under authority of this rule, must carry the following notation: "Published under authority of the Railroad Commission of the State of California, No. 63----- of (date)-----."

Provisions of the act relating to posting tariffs at stations.

22. Tariffs or carriers showing all fares, charges, or rules and regulations affecting fares or charges, shall be kept by every carrier readily accessible for inspection by the public in every station or office of such carrier where passengers are received for transportation, when such station or office is in charge of an agent.

Requirements as to posting.

Agents shall be provided with facilities for keeping schedules in readily accessible form, and shall be instructed and required to give any information contained in such schedules, to lend assistance to seekers

for information therefrom and to accord inquirers opportunity to examine any of said schedules, without requiring the inquirer to assign any reason for such desire.

(The End.)

APPENDIX No. 2.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

GENERAL ORDER No. 80.

(Cancels General Order No. 51.)

RULES AND REGULATIONS

**Issued by the Railroad Commission of the State of California to govern
the construction and filing of freight and express tariffs
and classifications issued by Automobile Truck
Transportation Companies.**

**Adopted November 12, 1927. Effective December 1, 1927.
San Francisco, California.**

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FREIGHT AND EXPRESS TARIFFS AND CLASSIFICATIONS.

Tariffs must conform to rules prescribed herein.

1. Tariffs issued or reissued must conform to all of these rules. The Commission may direct the reissue of any tariff at any time.

Filing schedules, tariffs and supplements.

Carriers and agents are directed, in filing tariffs in compliance with the statute, to transmit two (2) copies of each tariff, supplement, classification, or other schedule of rates or regulations, for the use of the Commission, both copies to be included in one package and under one letter of transmittal. (Rule 19.)

Definitions.

(a) The term "local rate" as used herein means a rate that extends over the line of one carrier only and the tariff carrying such rates is a "local tariff."

(b) The term "joint rate" as used herein means a rate that extends over the lines of two or more carriers and the tariff carrying such rate is a "joint tariff."

(c) The term "proportional rate" as used herein means a rate specifically published to be used only as a factor in making a combination through rate and the tariff carrying such rate is a "proportional tariff."

Tariffs must be printed.

2. (a) Tariffs containing five or more pages must be printed on hard calendared paper of good quality from type of size not less than six point, full face. Stereotype, planograph, or other printing process may be used. Tariffs containing four pages or less may be typewritten, provided all copies are clear and legible. Alterations in writing, or erasures, must not be made in tariffs.

Tariffs must be uniform, as to form and size.

(b) Tariffs must be in book, sheet or pamphlet form, and of size 8 by 11 inches. Loose leaf plan may be used, so that changes can be made by reprinting and inserting a single leaf. (See Rule 8.)

Title page shall show.

3. The title page of every tariff shall show:

C. R. C. number and cancellation.

(a) C. R. C. number of tariff on upper left-hand corner, and immediately thereunder, the C. R. C. number or numbers of tariffs and supplements canceled thereby. Serial numbers of carriers may be entered

on title page. Separate serial C. R. C. numbers will be used for freight, express and passenger tariffs.

Name of carrier.

(b) Name of issuing carrier or agent.

Kind of tariff.

(c) Whether tariff is local, joint, proportional or a combination of same, and whether class, commodity or combination of both, or tariff of rules and regulations.

Territory covered by tariff.

(d) The territory or points from and to which the tariff applies briefly stated.

Reference to governing classification or exception sheet.

(e) Reference by name and C. R. C. number to the classification and exception sheets governing the tariff. Following form will be used:

"Governed, except as otherwise provided herein, by the _____ Classification, _____ C. R. C. _____ Supplements thereto and reissues thereof; and by exceptions to said Classification _____ C. R. C. No. _____ Supplements thereto and reissues thereof."

A tariff is not governed by a classification or exception thereto except when and to the extent stated on the tariff.

Dates.

(f) Date of issue to the left of the page and date effective to the right.

Notation on tariffs or supplements when issued on less than statutory notice.

(g) On every tariff or supplement issued on less than thirty days' notice there must appear a notation that it is issued in compliance with order of the Railroad Commission of the State of California in Case No. _____, or Application No. _____, or by authority of Rule 20 of General Order No. 80, Permission No. _____ (date) _____ of the Railroad Commission of the State of California.

Officer issuing.

(h) Name, title and address of officer by whom tariff is issued.

Tariffs shall contain.

4. Tariffs shall contain in the order named:

Table of contents.

(a) Table of contents; a full and complete statement, in alphabetical order, of the exact location where information under general headings,

by subjects, will be found, specifying page or item numbers. If a tariff contains so small a volume of matter that the contents is plainly disclosed, the table of contents may be omitted.

Participating carriers, concurrence numbers.

(b) Names of issuing carriers, including those for which joint agent acts under power of attorney and the names of carriers participating under concurrence, alphabetically arranged. If there be not more than 10 participating carriers their names may be shown on title page. The form and number of power of attorney or concurrence to the tariff must be shown.

Index of commodities.

(c) Alphabetically arranged and complete index of all commodities upon which commodity rates are named.

Index of stations.

(d) Alphabetically arranged and complete index of points from and to which the tariff applies showing the index numbers or item numbers under which rates will be found.

(e) An official list of all the points in connection with which the tariff applies, showing in proper arrangement the distance between them.

Reference marks and abbreviations.

(f) Explanation of reference marks and technical abbreviations used in the tariff, except that a special provision applying to a particular rate may be shown in connection with and on the same page with such rate.

Explanatory statements.

(g) Such explanatory statement in clear and explicit terms regarding the rates and rules contained in the tariff as may be necessary to remove all doubt as to their proper application.

Rules governing the tariff.

(h) Rules and regulations which govern the tariff, the title of each rule or regulation to be shown, or by proper reference describe the tariff containing such rules and regulations. Under this head all of the rules, regulations or conditions which in any way affect the rates named in the tariff shall be entered.

Rate tables.

(i) An explicit statement of the rates, in cents or in dollars and cents, per 100 pounds, per ton, per barrel or other package, together with the names or designation of the points from and to which they apply,

all arranged in a simple and systematic manner, under proper index and item numbers. Complicated or ambiguous methods of stating the rates, rules or regulations must not be used.

Routes.

(j) The different routes via which tariff applies must be shown, together with appropriate reference to application of rates. When a tariff specifies routing, the rates may not be applied via routes not specified.

Changes to be indicated in tariff or supplement. Symbols indicating advances and reductions.

(k) Tariff publications or supplements thereto must indicate advances, reductions or changes thereby made in existing rates, charges, rules, regulations or classifications by the use of uniform symbols throughout the schedule: (A) to indicate advances; (R) to indicate reductions; (X) to indicate a change resulting in neither an advance nor reduction. Clear explanation of the use of these and other symbols must be made in the tariff.

Tariffs shall show "The End."

(m) At the foot of the last page of a tariff or supplement the words "The End."

Authority for advances in rates or charges must be secured from Commission.

5. (a) Advances in rates or charges or alterations in classifications, rules or regulations resulting in advances in rates or charges must not be included in a tariff publication unless previously authorized by the Commission. (See Rule 21.)

Authority for advances must be shown.

(b) Tariffs or supplements containing advances in charges must publish in proper place a notation that the item or rate is issued in compliance with the order of the Railroad Commission of the State of California in Case No.-----, or Application No.-----, or by authority of Rule No. 21 of General Order No. 80, Authorization No.-----, (date)-----, of the Railroad Commission of the State of California.

Limiting use of "common points," "grain products," etc.

6. (a) The term "all points," "in the vicinity of," or similar terms, must not be used in any tariff for the purpose of indicating the points from or to which rates named therein apply.

(b) The terms "grain products," "forest products," "petroleum

and its products," "cottonseed products," or similar terms, must not be used in any tariff for the purpose of indicating the articles to which the rates apply, unless a full list of the articles intended to be included in and covered by such terms is printed in the tariff.

(c) Commodity rates must be specific and must not be applied to analogous articles.

Combination of rates not to be exceeded.

7. Each tariff that contains class or commodity rates shall also contain a rule as follows:

"Whenever a class rate and a commodity rate are named between specified points, the lower of such rates is the lawful rate unless some combination of class rates or of commodity rates or of class and commodity rates makes a lower through rate."

In case some combination of rates makes a lower rate than the published through rate, such published through rate must be immediately adjusted.

Amendments and supplements.

8. (a) A change in or addition to a tariff shall be known as an amendment, and, excepting amendments to tariffs issued in loose leaf form, shall be printed in a supplement to the tariff and shall refer to the page, item or index of the tariff, or of previous supplement, which it amends.

Cancellation by item numbers.

(b) When the rates or rules in a tariff or a supplement are canceled or changed it must be under the same item or index number; for example, Item 10-A cancels Item 10. If a canceled item or any part thereof is taken up and thereafter carried in another item of different number, the cancellation must be carried under the original item number and must show in what item or items the effective rates are to be found, and the cancellation of the item in the original tariff or supplement must be brought forward in successive supplements as a reissued item as long as the cancellation is in force.

Amended item must be shown in full.

(c) An amended index or item must always be printed in a supplement in its entirety as amended, and the contents in each supplement shall be arranged in the same general order as the tariff which it amends.

Supplement number and cancellations.

(d) Supplements to a tariff shall be numbered consecutively as supplements to that tariff and must not be given separate or new C. R. C. numbers. Each supplement shall specify the supplement or supple-

ments which it cancels, and shall also show on its title page what supplements contain all changes from the original tariff. For example: "Supplement No.----- to C. R. C.-----," "cancels Supplements Nos.-----and-----." "Supplements Nos.-----and-----contain all changes from the original tariffs."

(e) A supplement which contains reissued items brought forward without change must show the following:

"Reissue: effective (date upon which item became effective) in Supplement No.-----"

Number of supplements effective at any time.

(f) Except as authorized in Rules 9(a), 9(b) and 10, not more than one supplement may be in effect at any time to a tariff of less than five pages; not more than two supplements may be in effect at any time to a tariff containing five and not more than twenty pages, and not more than three supplements may be in effect at any time to a tariff containing more than twenty pages.

Amendments to loose-leaf tariffs; no supplement.

(g) All changes in and additions to tariff issued in loose-leaf form must be made by reprinting the entire page upon which the change is made. Such pages must not be given supplement numbers, but must be designated "First Revised page-----," "Cancels original page"; "Second Revised page-----," "Cancels First Revised page," etc.; must show the C. R. C. number of the tariff, the issued and effective dates, and the name, title and address of officer by whom issued, conforming to original pages.

Withdrawal and adoption of tariffs when one carrier is absorbed by another.

9. (a) In case a line is transferred from the operating control of one company to that of another, or when its name is changed, the carrier whose line is taken over shall unite with that other carrier in common supplements to the tariffs on file with the Commission, on the one hand withdrawing and on the other hand accepting and establishing such tariffs and all effective supplements thereto. Such common supplements shall be executed jointly by the traffic officers, owners or agents of both the old and the new carriers. Amendments to such tariffs must be filed in consecutively numbered supplements until the tariffs are reissued. The reissued tariffs shall be numbered in the C. R. C. series of the new carrier.

Adoption of tariffs issued by other carriers or joint agents and of concurrences, power of attorney, etc., filed by old carrier.

(b) The new carrier, if it intends to use tariffs issued by other carriers or joint agents under concurrences or powers of attorney

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granted by the old carrier, shall file, and post with C. R. C. number in the form of a supplement, an adoption notice reading substantially as follows:

"The (name of carrier) hereby adopts, ratifies, and makes its own in every respect as if the same had been originally filed and posted by it, all tariffs, rules, notices, concurrences, traffic agreements, divisions, authorities, powers of attorney, or other instruments whatsoever, filed with the Railroad Commission of the State of California by the (name of old carrier) prior to (date) the beginning of its possession. By this notice it also adopts and ratifies all supplements or amendments to any of the above tariffs, etc., which it has heretofore filed with said Commission."

This adoption notice may be made effective and be filed immediately.

Concurrences and powers of attorney of old carrier must be replaced by those of new carrier.

(c) Concurrences and powers of attorney so adopted must, within ninety days, be replaced and superseded by new concurrences and powers of attorney issued by and in the name of the new carrier and in each instance cancelling the concurrences or power of attorney superseded.

Suspension of tariff publications.

10. (a) When the Commission suspends the operation and defers the use of a tariff or classification, rate, charge, regulation or practice, the following course shall be pursued by carriers:

Upon receipt of order of suspension the carrier or agent shall immediately file with the Commission a supplement stating that the rate, classification, charge, regulation or practice is under suspension and may not be used until further and proper notice.

When Commission's order of suspension is vacated.

(b) When the Commission vacates an order of suspension, the carrier or agent who published and filed such suspended tariff or supplement shall immediately file with the Commission a supplement stating the date upon which the rate, regulation, or practice becomes effective.

Notation on supplement.

(c) Every suspension or vacation supplement issued under authority of this Rule must bear on title page the following notation:

"Issued under authority of Rule 10 of General Order No. 80 and in compliance with Order No.----- of the Railroad Commission of the State of California of (date)-----, 19-----."

Such supplements will not be counted against the number of supplements permitted to such tariff under Paragraph (f) of Rule 8.

Joint agent will use his own C. R. C. serial number.

11. (a) A joint agent duly authorized to act for several carriers must file joint tariffs or classifications or exception sheets in the name

of the agent or his organization and under C. R. C. serial numbers of his own.

Send copies of joint publication to every participant therein.

(b) The agent or the carrier that issues a joint tariff publication shall at once send copies thereof to each and every carrier that is named as a party thereto.

Carrier must not publish rates conflicting with or duplicating rates published by its agents.

(c) A carrier that grants authority to an agent or to another carrier to publish and file certain of its rates must not in its own publications publish rates that duplicate or conflict with those which are published by such authorized agent or other carrier. This rule will not prevent the filing of joint "agent and carrier" tariffs.

Rejected tariffs.

12. When a tariff is rejected by the Commission, the records so show and it must not thereafter be referred to or the number again used except to note on publication that is issued in lieu of such rejected tariff "in lieu of----- rejected by Commission."

Rates prescribed in Commission's decisions must be promulgated in tariffs and Commission notified.

13. Rates prescribed by the Commission in its decisions and orders upon complaints or applications, shall, in every instance, be promulgated by the carriers against which such orders are entered in duly published, filed and posted tariffs, or supplements to tariffs. Notice shall be sent to the Commission that its order in Case No.-----, or Application No.-----, has been complied with in item No.-----, page----- of Tariff C. R. C. No.-----, or supplement to tariff, C. R. C. No.----- Like notice must appear on title page of tariff or in connection with the rates in the tariff. (Rule 3(g).)

Issuance of classification by joint agent.

14. A carrier may grant to a joint agent authority to publish and file for it classification and supplements thereto and exceptions to the classification, or such exceptions may be published by the carrier in its own issues, either as parts of individual tariffs or in a publication that is given a C. R. C. number. In so far as is practicable, exceptions should be included in the tariff.

Cancellation must be by authorized agent or by carrier that issued the tariff canceled.

15. An agent who acts under power of attorney is fully authorized to act for the carriers that have named him their agent and attorney,

and therefore it is permissible for him to cancel by his tariffs issues of such principals.

A carrier may not by its individual tariff cancel, amend or modify a tariff filed by a duly authorized agent.

Form of appointment of agent.

16. The following form will be used in giving a power of attorney to an agent:

**TO BE FILED WITH THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.**

(Name of carrier in full)

(Place)

(Date)

Form A. F. 1 No.-----

To the Railroad Commission of the State of California,
San Francisco, California.

This is to certify that the (name of carrier) has made, constituted and appointed, and by these presents does make, constitute and appoint (name of person appointed) its true and lawful attorney and agent for the said company and in its name, place and stead, (1) for it alone, and (2) for it jointly with other carriers, to file tariffs, classifications, and exception sheets and supplements thereto, as required of common carriers by regulations established by the Railroad Commission of the State of California thereunder for the period of time, the traffic and the territory now herein named:

And the said (name of carrier) does hereby give and grant unto its said attorney and agent full power and authority to do and perform all and every act and thing above specified as fully to all intents and purposes as if the same were done and performed by the said company, hereby ratifying and confirming all that its said attorney and agent may lawfully do by virtue hereof, and assuming full responsibility for the acts and neglects of its said attorney and agent hereunder.

IN WITNESS WHEREOF, the said company has caused these presents to be signed in its name by its legal executive officer at-----, in the State of California, on this-----day of-----, in the year of our Lord nineteen hundred and-----.

(Name of carrier)

By -----
(Name of officer)

(Title of officer)

Attest:

(Corporate Seal)

Carrier issuing this form will file the original with the Commission and will furnish duplicate to the agent to whom power of attorney is given.

17. Concurrence may be given by a carrier in tariffs issued by another carrier or its agent applying rates to and from its points and via its lines and after the following form:

**TO BE FILED WITH THE RAILROAD COMMISSION OF THE
STATE OF CALIFORNIA.**

(Name of carrier in full)

(Place)

(Date)

Form A. F. 2 No.-----

To the Railroad Commission of the State of California,
San Francisco, California.

This is to certify that (name of carrier) assents to and concurs in the publication and filing of any freight rate schedule or supplement thereto which (name of carrier or agent) may make and file, and in which this company is shown as a participating carrier, and hereby makes itself a party to, and bound thereby in so far as such schedule contains rates applying to or from points on its lines, and via its lines, until this authority is revoked by formal and official notices of revocation placed in the hands of the Railroad Commission of the State of California and of the carrier or agent to which this concurrence is given.

(Name of carrier)

By -----

(Name of officer)

(Title of officer)

This form may be qualified to apply to a designated tariff or rate.

Carrier issuing this form will file the original with the Commission and will furnish duplicate to the carrier publishing the tariff.

Number of concurrences and authorizations.

18. (a) Each carrier will assign serial numbers to powers of attorney and concurrences, beginning with No. 1 in each series, as indicated by forms, and continuing in consecutive numbers as to each series.

(b) A power of attorney or concurrence may be revoked by filing notice of such revocation with the Commission and serving same upon carrier to which such concurrence was given. Such notice must specify the date upon which revocation is to be made effective, and must give not to exceed sixty (60) days' notice to the Commission and to the carrier to which concurrence was given.

Quality and size of paper.

(c) All powers of attorney and certificates of concurrence must be printed or typewritten on hard calendered paper 8 by 11 inches in size.

Letter of transmittal.

19. Tariffs filed with the Commission shall be accompanied by a letter of transmittal, on paper 8 by 11 inches in size, and to the following effect:

Form.

LETTER OF TRANSMITTAL.

(Name of carrier in full)

-----Department.

(Place)

(Date)

To the Railroad Commission of the State of California,
San Francisco, California.

Accompanying schedule is sent for filing in compliance with Rule One of General Order No.-----, issued by-----, bearing C. R. C. No.-----or Supp. No.----- to C. R. C. No.----- Effective-----, 19-----, and is concurred in by all carriers named therein as participants under concurrences or authorizations now on file with the Railroad Commission of the State of California.

(Signature of carrier or agent.)

A separate letter may accompany each schedule, or the form may be modified to provide for filing under one letter as many schedules as can be conveniently entered.

NOTE.—If receipt for accompanying schedule is desired, the letter of transmittal must be sent in duplicate, and one copy will be stamped and returned as receipt.

Rate changes on less than thirty days' notice.

20. Unless otherwise authorized by the Commission, no change shall be made in any rate, fare, classification, charge, regulation or practice, except after thirty days' notice to the Commission and to the public. The Commission, for good cause shown, may permit such changes on less than statutory notice. This authority will be exercised only in cases where actual emergency and real merit are shown.

Application to Commission.

Applications for this permission, duly verified, shall be addressed to the Railroad Commission in the form appended to this rule and must be over the signature of an executive officer, specifying title, or any agent to whom power of attorney has been given.

FORM

PRESCRIBED BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA, FOR APPLICATION TO CHANGE A RATE OR RULE, OR RATES OR RULES, ON LESS THAN THE STATUTORY THIRTY DAYS' NOTICE.

(Name of carrier in full)

(Place)

(Date)

To the Railroad Commission of the State of California,
San Francisco, California.

The -----

(name of carrier)

by -----

(name of officer)

its -----

(title of officer)

hereby applies under Rule 20 of General Order No. 80 for an order granting permission to put in effect_____days after publication and filing with the Commission the following rate or rule, or rates or rules:

(State fully the proposed rate or rule, or rates or rules or regulations.

Reference may here be made to exhibit showing information required.)

The proposed rates are intended to be published in Tariff C. R. C. No._____, and will supersede and take the place of rates on like traffic from and to the points above named, which are set forth in C. R. C. No._____, on file with the Commission and which rates are as follows, to wit:

(Here name the present rate or rules or regulations. Reference may here be made to exhibit showing information required.)

This application is based upon the following special circumstances and conditions:

(State fully all the circumstances and conditions which are relied upon as justifying the application, and if based upon rates in effect via other lines specific reference should be given to the C. R. C. numbers of the tariff of such other line or lines. Reference may here be made to exhibit showing information required.)

(Name of carrier)

By _____
(Name of officer)

(Title of officer)

Subscribed and sworn to before me this_____
day of_____, 19____.

Notary Public in and for the

County of_____, State of_____

(Name and address of attorney, if any)

Rate increases on less than 30 days' notice.

Rates, classifications, charges, regulations or practices published under authority of this rule, must carry the following notation: "Published on _____days' notice under authority of the Railroad Commission of the State of California, No. 20_____ of (date)_____."

Application to Commission. Over whose signature.

21. Applications for authority to increase charges (see Rule 5) duly verified, shall be addressed to the Railroad Commission in the form set

forth below and over the signature of an executive officer, specifying title or any agent to whom power of attorney has been given.

FORM

PREScribed BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA FOR APPLICATION FOR PERMISSION TO INCREASE RATES, OR TO ALTER RULES OR REGULATIONS SO AS TO EFFECT INCREASES IN RATES.

(Name of carrier in full)

(Place)

(Date)

To the Railroad Commission of the State of California,
San Francisco, California.

The

(name of carrier)

By

(name of officer)

its

(title of officer)

hereby applies under authority of Rule 21 of General Order No. 80 for an order granting permission to establish the following rates (or rules or regulations):

State fully the proposed rates (or rules or regulations). Reference may here be made to exhibit showing required information.

The proposed changes are advances or result in advances over the present rates concurrently in effect from and to the same points, and which are as follows:

Here state fully the present rates (or rules or regulations). Reference may here be made to exhibit showing required information.

This application is based upon the following special circumstances and conditions which are relied upon as justifying the proposed changes which result in advances.

Here state fully all reasons for the proposed advances so that the Commission may clearly see the justification therefor.

(Name of carrier)

By

(Name of officer)

(Title of officer)

Subscribed and sworn to before me this
day of _____, 19____.

Notary Public in and for the

County of _____, State of _____

(Name and address of attorney, if any)

Rates, classifications, charges, regulations or practices published under authority of this rule, must carry the following notation: "Published under authority of the Railroad Commission of the State of California, No. 21----- of (date)-----."

Provisions of the Act relating to posting tariffs at stations.

22. Tariffs of carriers showing all rates, classifications or charges, or rules and regulations affecting rates or charges, shall be kept by every carrier readily accessible for inspection by the public in every station or office of such carrier where property is received for transportation, when such station or office is in charge of an agent.

Requirements as to posting.

Agents shall be provided with facilities for keeping schedules in readily accessible form, and shall be instructed and required to give any information contained in such schedules, to lend assistance to seekers for information therefrom and to accord inquirers opportunity to examine any of said schedules, without requiring the inquirer to assign any reason for such desire.

(The End.)

DECISION No. 19030.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF LOS ANGELES, THE CITY OF LOS ANGELES, THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY, THE LOS ANGELES AND SALT LAKE RAILROAD COMPANY, THE PACIFIC ELECTRIC RAILWAY COMPANY AND THE LOS ANGELES RAILWAY CORPORATION FOR A JUST AND EQUITABLE APPORTIONMENT OF THE COST OF THE CONSTRUCTION OF SIX CERTAIN VIADUCTS ACROSS THE LOS ANGELES RIVER, IN THE SAID CITY OF LOS ANGELES, AT MACY, ALISO, FIRST, FOURTH, SEVENTH AND NINTH STREETS.

Application No. 9671.

Decided November 12, 1927.

CROSSINGS—GRADE SEPARATION—VIADUCT—APPORTIONMENT OF COST.—Costs of separation of grades and construction of First street viaduct over the Los Angeles River in the city of Los Angeles apportioned as follows: City of Los Angeles 23½ per cent; County of Los Angeles 23½ per cent; A., T. and S. F. Ry. Co. 25 per cent; L. A. and S. L. Ry. Co. 10 per cent; L. A. Ry. Corp. 18 per cent.

Edward T. Bishop, County Counsel, by *Roy Dowds*, Deputy County Counsel, for the County of Los Angeles.

Jess E. Stephens, City Attorney, by *Milton Bryan* and *J. L. Ronnow*, Deputy City Attorneys, for the City of Los Angeles.

E. W. Camp, for The Atchison, Topeka and Santa Fe Railway Company.

A. S. Halsted, for Los Angeles and Salt Lake Railroad Company.

S. M. Haskins, for the Los Angeles Railway Corporation.

Frank Karr, for Pacific Electric Railway Company.

SEAVEY, Commissioner.

OPINION.

This opinion and order are concerned with the apportionment of cost of the First street viaduct, authorized to be constructed under Decision No. 18569, dated July 2, 1927, in this proceeding. Evidence in regard to this structure and to the apportionment of the cost thereof was introduced at the hearing held in this proceeding at Los Angeles on June 29, 1927, at which time the matter, as related to the First street viaduct, was submitted. Under Decision No. 18569, mentioned above, the plans for the viaduct, city of Los Angeles Exhibit No. 18, were approved; The Atchison, Topeka and Santa Fe Railway Company was authorized to maintain its passenger tracks under the new viaduct with present clearances until otherwise ordered by the Commission; and, Los Angeles Railway was authorized to route its First street cars over the Macy street viaduct during construction of the First street viaduct. Only the apportionment of cost of this viaduct remains to be decided.

The general appearance, design and capacity of this viaduct are similar to the viaducts already authorized and built at Ninth, Macy and Seventh streets, except that the grades of approach are slightly heavier than those on the other viaducts, being five per cent, and the river portion is designed with two arch rings compared to three at Ninth street and at Seventh street and one at Macy street.

The design of this viaduct is somewhat different from the plan suggested by the engineering department of the Commission in figure 50, page 178 of "Railroad Grade Crossing and Terminal Investigation, Los Angeles" (C. R. C. Ex. No. 1, Case 970 *et seq.*). The plans submitted by the city, under Exhibit No. 18 in this proceeding, place the floor of the bridge at a higher elevation by 3.63 feet than the plan in figure 50 above referred to, as a result of carrying the viaduct over Santa Fe avenue, which was not contemplated in the "terminal report." The new plans also contemplate a new street with 33½-foot roadway along the north side of the viaduct which will provide an outlet from Santa Fe avenue to First street and will allow of operation of street cars between those two streets.

Conditions, with respect to the First street viaduct, are slightly different than those encountered at the various viaducts already authorized in this proceeding.

At Ninth street an obsolete highway bridge without street car facilities extended over the river and across the adjacent railroad tracks at grade.

At Macy street separate obsolete highway and street car bridges were in existence at grade.

At Seventh street an adequate modern bridge at grade for pedestrian, vehicular and street car traffic was in existence.

At First street we find an obsolete bridge carrying street cars and vehicular and pedestrian traffic over the Los Angeles River and the adjacent railroad tracks at separated grades. The street car tracks are located along one side of the bridge, which is in an unsatisfactory traffic condition, and clearances over certain of the railroad tracks are impaired.

The estimated cost of this grade separation, based on the figures presented by the interested parties for their particular portions of the work, with Santa Fe tracks at legal clearance and with Santa Fe passenger tracks with impaired clearance, are respectively as follows:

Legal clearance.....	\$1,498,829 00
Impaired clearance.....	1,378,527 00

The estimated cost of the three previous viaducts was estimated as follows:

Ninth street.....	\$855,425 00
Macy street.....	810,305 00
Seventh street.....	1,099,284 00

The First street viaduct is longer than any of the other viaducts and the track changes of the Santa Fe are more extensive than at the other viaducts, which two items account for the greater portion of the increased cost of this separation.

The apportionment of cost will now be discussed. Although all of the parties in the original application, except the Los Angeles Railway Corporation, requested an equal division of the costs on the several viaducts, this attitude was modified at the hearing had on June 29, 1927. At this hearing the steam carriers took the position that inasmuch as the Commission, in its apportionment of costs of the Macy and Seventh street viaducts, had deviated from the basis of equal division of the costs between the parties, the cost of each of the remaining viaducts should be likewise individually apportioned on their merits. Counsel for the city of Los Angeles admitted the fairness of such proceeding and acquiesced therein.

The Engineering Department of the Commission made an analysis of the apportionment of cost of this viaduct on the same three bases as were developed for Macy street viaduct. These three bases, as set forth in Decision No. 14731 (26 C. R. C. 209) covering that viaduct, are as follows:

Basis 1. An equal division of cost between the five applicants primarily interested, similar to the apportionment agreed upon by four of these five applicants.

Basis 2. A division of cost based upon considerations related to the purpose for which the structure is to be constructed. The component parts of the reasoning under this basis might be summarized as follows:

(a) The cost of spanning the river (assuming no railroads involved) assessed to the political subdivisions.

(b) The cost of separating the grades of the street with each steam railroad, equally divided between the political subdivisions and the respective railroads. This includes the cost of raising the bridge spanning the river to the required elevation.

(c) The excess cost of the work due to occupancy of the street by the street railway, assessed to the street railway company.

Basis 3. A division of cost based upon the same consideration as Basis 2, except that the 20-foot strip along the viaduct, which would be available for use of either street cars or other vehicles, is considered under joint use by the street railway and the general public, and that therefore the street railway be assessed with not only the excess cost due to its occupancy, but in addition, one-half of the cost otherwise assessable to the political subdivisions for the construction of that 20-foot portion of such design and strength as required for general street purposes.

Although at Macy street grades were not separated, in the pending case they are inadequately separated, due to impaired clearances.

The analysis of the engineering department of the Commission, as set forth in Exhibit No. 6, shows the following percentages of cost prorated to each party on the three bases given:

Santa Fe Clearances Standard.

<i>Name of party.</i>	<i>Basis 1</i>	<i>Basis 2</i>	<i>Basis 3</i>
City of Los Angeles.			
Amount -----	\$299,766.00	\$387,899.00	\$333,265.00
Per cent -----	20.00	25.89	22.25
County of Los Angeles.			
Amount -----	299,766.00	387,899.00	333,265.00
Per cent -----	20.00	25.89	22.25
The Atchison, Topeka and Santa Fe Railway.			
Amount -----	299,765.00	434,275.00	434,275.00
Per cent -----	20.00	28.96	28.96
Los Angeles and Salt Lake Railroad Company.			
Amount -----	299,766.00	135,808.00	135,808.00
Per cent -----	20.00	9.06	9.06
Los Angeles Railway Corporation.			
Amount -----	299,766.00	152,948.00	262,216.00
Per cent -----	20.00	10.20	17.48
Total amount-----	\$1,498,829.00	\$1,498,829.00	\$1,498,829.00

Santa Fe Impaired Clearances Retained.

<i>Name of party.</i>	<i>Basis 1</i>	<i>Basis 2</i>	<i>Basis 3</i>
City of Los Angeles.			
Amount -----	\$275,706.00	\$357,824.00	\$307,425.00
Per cent -----	20.00	25.97	22.30
County of Los Angeles.			
Amount -----	275,705.00	357,824.00	307,426.00
Per cent -----	20.00	25.97	22.31
The Atchison, Topeka and Santa Fe Railway.			
Amount -----	275,705.00	374,123.00	374,124.00
Per cent -----	20.00	27.12	27.13
Los Angeles and Salt Lake Railroad Company.			
Amount -----	275,705.00	135,808.00	135,808.00
Per cent -----	20.00	9.85	9.86
Los Angeles Railway Corporation.			
Amount -----	275,705.00	152,948.00	253,744.00
Per cent -----	20.00	11.09	18.40
Total amount-----	\$1,378,527.00	\$1,378,527.00	\$1,378,527.00

The Los Angeles and Salt Lake Railroad Company contended that the apportionment of costs of this viaduct, if based on its individual merits rather than on the equal division of costs between the interested parties, as proposed in the application by all parties herein except Los Angeles Railway Corporation, should be made in the same manner as under the agreement pertaining to the reconstruction of the Spring street viaduct, copy of which said railroad company introduced as its Exhibit No. 10.

This agreement provides that the two steam roads, Salt Lake and Santa Fe, shall each pay the cost of lowering or realigning its tracks, where necessary, plus the extra cost of lengthening the spans over its tracks, estimated in the case of the Santa Fe at not more than \$4,000 and in the case of the Salt Lake at not more than \$11,000. In addition the Salt Lake agreed to waive property damage to its land fronting on North Spring street, due to lengthening the viaduct.

The Commission was not a party to the drawing up of this agreement and has no knowledge of the costs entering into the construction of the separation and therefore is not in a position to pass upon the merits of the agreement. However, applying the basis of the Spring street agreement to the pending case, we find that percentage of cost to the steam roads is fairly comparable to those of Bases 2 and 3 of Exhibit No. 6.

The county of Los Angeles urged that the percentage of through traffic at First street was such that the county should not be assessed with as large a percentage of the cost as it had been in the previous cases. Since First street is an important highway artery leading to the business center of Los Angeles, it does not appear practical to apportion the cost on percentages of through and local traffic. No practical method has been presented by which an apportionment of cost on use basis by the vehicular travel can be arrived at.

It therefore appears that the method set forth in Basis 3 is not unreasonable and with slight modification because of varying conditions is as fair a basis in general for assessing the costs of this grade separation as has been brought forward.

The following form of order is recommended :

ORDER.

It is hereby ordered, that the costs of the separation of grades and of the construction of the viaduct at First street, including the cost of changes in tracks and yards of the railroads upon the east and west banks of the river, as may be allocated to this particular viaduct by further order or orders herein, be and the same shall be paid as follows :

Twenty-three and one-half per cent ($23\frac{1}{2}\%$) by the city of Los Angeles.

Twenty-three and one-half per cent ($23\frac{1}{2}\%$) by the county of Los Angeles.

Twenty-five per cent (25%) by The Atchison, Topeka and Santa Fe Railway Company.

Ten per cent (10%) by the Los Angeles and Salt Lake Railroad Company.

Eighteen per cent (18%) by Los Angeles Railway Corporation.

It is hereby further ordered, that this order be and it is subject to the following conditions:

(1) The lines of demarcation of the track work to be charged to the First street viaduct on both sides of the river shall be placed half way between First and Fourth streets and First and Aliso streets.

(2) Each applicant to this proceeding financially interested in the construction of this viaduct shall, within sixty days of the completion of its work chargeable to the viaduct, file with the Commission a completion report of that portion of the work performed by it, said report to show total cost of such work, together with the quantities of material used or moved, labor charges thereon and such other expenses as may have been incurred.

(3) Clearances in this grade separation shall, except as provided in the order in Decision No. 18569, dated February 24, 1926, in this proceeding, conform to this Commission's General Order No. 26-C.

(4) The Commission reserves the right to make such further orders with respect to the construction, clearances and costs of this viaduct as to it may seem right and proper.

The effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of November, 1927.

DECISION No. 19032.

IN THE MATTER OF THE APPLICATION OF MT. LASSEN TRANSIT COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE EXPRESS SERVICE BETWEEN OROVILLE AND BUCK'S RANCH AND INTERMEDIATE POINTS, ETC., AND TO CONSOLIDATE ALL OPERATIVE RIGHTS NOW OWNED AND SOUGHT BY APPLICANT FOR THE TRANSPORTATION OF PASSENGERS, BAGGAGE, FREIGHT AND EXPRESS.

Application No. 13797.

Decided November 12, 1927.

AUTOMOTIVE TRANSPORTATION—UNIFICATION OF OPERATIVE RIGHTS—RATES.—Mt. Lassen Transit Company authorized to operate auto express service between Oroville and Buck's Ranch and freight service between Merrimac and Swayne's Logging Camp, and between Chester and Mineral; to adjust and increase certain inconsistent rates; and to consolidate all operative rights owned by applicant.

Harry A. Enocell, for Applicant.

George Scruggs, for Western Pacific Railroad Company, Protestant.

Edward Stern, for American Railway Express Company, Protestant.

BY THE COMMISSION.

OPINION.

Mt. Lassen Transit Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile truck and stage line as a common carrier of express between Oroville and Buck's Ranch and intermediate points and of freight between Merrimac and Swayne's Logging Camp and intermediate points, and also of freight between Chester and Mineral; also permission for the adjustment of certain inconsistent rates now appearing in the tariffs of applicant and for an order authorizing the consolidation of all operative rights now owned and herein sought by applicant for the transportation of passengers, baggage, freight and express.

Applicant proposes to charge fares for the consolidated service herein sought to be established and the rules and regulations governing the same, in accordance with amended Exhibit "A" attached to said application and by reference made a part thereof.

Applicant proposes to charge rates for the consolidated express service herein sought to be established and the rules and regulations governing the same, in accordance with Exhibit "B" attached to said application and by reference made a part thereof.

Applicant proposes to charge rates for the consolidated freight service herein sought to be established and the rules and regulations governing the same, in accordance with Exhibit "C" attached to said application and by reference made a part thereof.

Applicant proposes to operate on time schedules between all the points proposed to be served by the consolidated service, as shown in Exhibit "D" attached to said application and by reference made a part thereof.

Applicant proposes to use in the operation of the consolidated service modern stages, trucks and trailers to adequately serve the needs of the general public.

The Western Pacific Railroad Company and the American Railway Express Company appeared at the hearing in opposition to the granting of said application.

The record shows that Mt. Lassen Transit Company is the owner and operator of the following operative rights heretofore granted by the Railroad Commission of the State of California:

1. Passengers, baggage and express between Red Bluff, Tehama County, and Westwood, Lassen County, and intermediate points via Payne's Creek, Mineral and Chester, granted by Decision No. 14507 in Application No. 10764, dated January 30, 1925, and Decision No. 15129 in Applications Nos. 11106 and 11069, dated July 3, 1925;

2. Passengers, baggage, freight and express between Keddie, Crescent Mills, Greenville, Forest Camp, Canyon Dam, Prattville, Almanor Inn, Chester and Drakesbad, and intermediate points; and passengers, baggage and express between Keddie, Crescent Mills, Greenville, Westwood and Susanville, granted by Decision No. 14737 in Application No. 10948, dated April 4, 1925, and Decision No. 15129 in Applications Nos. 11106 and 11069, dated July 3, 1925;

3. Passengers, baggage and express between Nevada state line near Doyle and Westwood and intermediate points, granted by Decision No. 7506 in Application No. 5363, dated April 30, 1920, and Decision No. 15129 in Applications Nos. 11106 and 11069, dated July 3, 1925;

4. Passengers, baggage and express between Westwood and Greenville, on the one hand, and Crescent Mills and Greenville, on the other hand, granted in Decision No. 15129 in Applications Nos. 11106 and 11069, dated July 3, 1925;

(Said Decision No. 15129 granted to applicant the right to operate one unified system of through service for the transportation of passengers, baggage and express between all the termini named in Applications Nos. 11106 and 11069 and the intermediate points; express service being limited to the transportation of packages on passenger stages; and freight service only over and along the route between Keddie, Crescent Mills, Greenville, Forest Camp, Canyon Dam, Prattville, Almanor Inn, Chester, Drakesbad and intermediate points.)

5. Passengers, baggage and express between Mineral and Lake Helen and intermediate points, via Supan Sulphur Works, granted in Decision No. 15099 in Application No. 11007, dated June 25, 1925, and Decision No. 15479 in Application No. 11671, dated October 1, 1925;

6. Passengers, baggage and express between Chico and Westwood and intermediate points; between Westwood and Susanville and intermediate points, and between Chester and Juniper Lake, granted in Decision No. 15479 in Application No. 11671, dated October 1, 1925;

(All of which operative rights were consolidated and unified by order of the Commission in its said Decision No. 15479 so as to enable applicant to render service in accordance with the foregoing rights between all termini and intermediate points served by and along the routes covered by said rights.)

7. Passengers and baggage between Susanville and Doyle and intermediate points, granted and linked with other operative rights of applicant by Decision No. 15647 in Application No. 11787, dated November 20, 1925;

8. Passengers, baggage, freight and express between Mineral and a point on the boundary line of Lassen Volcanic National Park, about 13½ miles from Manzanita Lake and intermediate points, via Viola and Manzanita Lake, granted by Decision No. 16006 in Application No. 12506, dated February 15, 1926;

9. Passengers and baggage between Oroville and Swayne's Logging Camp and intermediate points; freight between Oroville and Merrimac and intermediate points; packages between Oroville and Swayne's Logging Camp; passengers, baggage and freight between Swayne's Logging Camp and Buck's Ranch, authorized by Decision No. 16555 in Application No. 12745, dated April 23, 1926;

10. Passengers, baggage, freight and express between Quincy and Buck's Ranch and intermediate points, granted by Decision No. 17215 in Application No. 13066, dated August 13, 1926;

11. Passengers, baggage, freight and express between Keddie and Quincy and intermediate points, granted by Decision No. 18052 in Application No. 13231, dated March 14, 1927.

An examination of the foregoing operative rights discloses the fact that applicant is the operator of at least three main truck lines consisting primarily of routes from Reno to Westwood, from Westwood to Red Bluff and from Westwood to Keddie, together with an important passenger and express service between Oroville and Quincy and intermediate points.

Applicant called several witnesses in support of its proposed additional and consolidated service, including W. C. Lawrence, who is superintendent of transportation for said applicant. The testimony shows that the Mt. Lassen Transit Company acquired by purchase the operative rights of Pauly & Stinchfield, operating between Oroville and Buck's Ranch and intermediate points, which said operative rights included the right to transport freight between Oroville and Merrimac and intermediate points and between Swayne's and Buck's Ranch, but it appears that Pauly & Stinchfield at no time operated or owned any operative rights to transport freight between Merrimac and Swayne's Camp, the distance between these two latter points being about seven miles. Swayne's Camp and Merrimac are points situated on the principal route between Oroville and Quincy.

The record shows that the applicant now owns and operates a passenger, freight and express service between Buck's Ranch and Quincy, which is also a part of the route between Oroville and Quincy. The record shows that the proposal of applicant to operate a freight service between Merrimac and Swayne's Camp will close the gap between these two points and permit applicant to meet the demand of patrons who not only ship freight to other points between Oroville and Quincy, but to the intermediate territory between Merrimac and Swayne's Camp. The testimony shows that the absence of authority to transport freight to this territory between Merrimac and Swayne's Camp presents an unsatisfactory and impracticable situation to meet the demands of shippers and patrons of the Mt. Lassen Transit Company, who fre-

quently make requests for the transportation of freight between Swayne's Camp and Merrimac.

The record shows that applicant holds passenger and freight rights between Oroville and Buck's Ranch and herein seeks express rights between these two points in response to constant and almost daily demands from its patrons to carry express matter to various points along its stage route between Oroville and Buck's Ranch. At the present time hydro-electric construction operations are in progress at and near Buck's Ranch. Oroville is the nearest town of any considerable size to Buck's Ranch and applicant has daily requests for the transportation of light parcels and packages, as well as fruit and vegetables, also auto parts and machine parts, all of which could be carried upon the stages operated for passenger and baggage service between these points and points beyond as far as Quincy.

With reference to the proposed freight service between Mineral and Chester, the testimony shows that there is a considerable volume of freight moving between these two mountain points. It appears that the Red River Lumber Company sells to the general merchandise store at Mineral practically all of the goods, wares and merchandise handled by this store. At the present time these goods are shipped to Westwood and conveyed by a truck out of Westwood to Mineral. The evidence shows that the owner of the merchandise store at Chester also sells and ships considerable merchandise to Mineral. The testimony shows that Red Bluff is also a buying center, not only for the merchants at Mineral and Chester, but at many way points between these two mountain communities. There is considerable merchandise which goes to Drakesbad, most of which is purchased at Red Bluff, which passes through Mineral and is distributed to the campers and to the highway camps along the Red Bluff road at Dominguez Springs and other points. The testimony shows that there is almost a daily demand for the transportation of all kinds of freight between Mineral and Chester which is shipped both from Red Bluff, Westwood and Chester.

The record shows that the proposed adjustment of the rates and fares which now appear in the tariffs of applicant will consist largely of reductions, together with some increases, which are disclosed by a study of Exhibits "A," "B" and "C," attached to said application. The reductions are indicated by the letter R and increases by the letter A before each rate or fare.

The record shows that the adjustments with respect to passenger fares as shown in Exhibit "A" attached to said application are proposed between Forest Camp and Keddie, on the one hand, and Canyon Dam, on the other hand, and also between Keddie and Greenville and between Mineral and Summit Lake. It appears that a small increase or 25 cents per hundred pounds is desired between Greenville and

Keddie and between certain other points in order to eliminate certain inconsistencies and make the combination of local fares equal to the through fares, for the reason that the present tariff of applicant shows that the sum of the locals is less than the through fares. These few adjustments and rate increases are not sought for revenue purposes, but to iron out those few instances where the combination of local fares is less than the through rate.

The record shows that all the proposed changes made in the express rates are reductions.

With reference to the freight rates as proposed in Exhibit "C" attached to the application the evidence shows that there are a limited number of increases proposed between Keddie and Crescent Mills, Keddie and Prattville, Keddie and Almanor Inn and Keddie and Chester, also between Crescent Mills and the same foregoing points. The evidence shows that there is a small increase of 10 cents per 100 pounds between Keddie and Crescent Mills, a distance of 11 miles. The proposed rate between Keddie and Prattville is \$1, which is an increase of 30 cents per hundred, the distance between these two points being 34 miles, and the route passing over two ranges of mountains. The proposed rate from Crescent Mills to Prattville, Almanor Inn and Chester is 70 cents per hundred, being an advance of 20 cents over the existing charge. There is a proposed increase of 40 cents from Keddie to Drakesbad, a distance of 55 miles over a very rough and bad road. The record shows that all proposed freight increases are fair and reasonable for the reason that the volume of traffic is limited and hauled over steep and difficult mountain roads.

The record shows that the present transportation system of the Mt. Lassen Transit Company has been built up in a large measure by the acquirement of the operative rights of several authorized truck and stage operators and the establishment of a unified system with the approval and authority of the Railroad Commission. The evidence in this proceeding shows that the unification of the existing operative rights with those sought in this proceeding will meet the public convenience through the elimination of transfers at existing terminals and the rerouting of passenger stages and freight trucks from points along one operative right to another and will result in the more economic operation of applicant's lines through the reduction of various and sundry costs and expenses.

Mt. Lassen Transit Company now owns and operates eleven franchises and it is necessary in the accounting to the different commissions and to the different divisions of the state government on each separate line to have separate accounting for each separate service, and it also necessitates keeping mileage records, tire records and also various cost

records in general on each separate line which, if they were all consolidated, would put one accounting over practically the eleven franchises.

There are now six divisions maintained over the system of the Mt. Lassen Transit Company and the proposed complete consolidation would effect important economies in rearranging of various schedules permitting advantageous use of drivers as well as equipment.

The Western Pacific Company and the American Railway Express Company, as protestants, offered no testimony in support of their protests.

After a careful consideration of all the evidence in this proceeding, we are of the opinion and hereby find as a fact that the public convenience and necessity require the proposed express service of applicant between Oroville and Buck's Ranch and the proposed freight service between Merrimac and Swayne's Logging Camp and between Chester and Mineral. Upon the record herein, we are also of the opinion that permission should be granted to the applicant for the adjustment of certain inconsistent rates now appearing in the tariffs of applicant on file with this Commission and also for an order authorizing the consolidation of all of applicant's operative rights with those herein granted for the transportation of passengers, baggage, freight and express, subject to the provisions and conditions of this opinion and order herein.

ORDER.

A public hearing having been held in the above entitled application, the matter having been submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Mt. Lassen Transit Company, a corporation, of an automobile truck and stage line as a common carrier of express between Oroville and Buck's Ranch and intermediate points and of freight between Merrimac, Swayne's Logging Camp and intermediate points, and also of freight between Chester and Mineral, and also permission for the adjustment of certain inconsistent rates now appearing in the tariffs of applicant and also for an order authorizing the consolidation of all operative rights now owned and herein sought by applicant for the transportation of passengers, baggage, freight and express, which routes are as follows:

1. Passengers, baggage and express between Red Bluff, Tehama County, and Westwood, Lassen County, and intermediate points, via Payne's Creek, Mineral and Chester, granted by Decision No. 14507 in Application No. 10764, dated January 30, 1925, and Decision No. 15129 in Applications Nos. 11106 and 11069, dated July 3, 1925;

2. Passengers, baggage, freight and express between Keddie, Crescent Mills, Greenville, Forest Camp, Canyon Dam, Prattville, Almanor Inn, Chester and Drakesbad and intermediate points; and passengers, baggage and express between Keddie, Crescent Mills, Greenville, Westwood and Susanville, granted by Decision No. 14737 in Application No. 10948, dated April 4, 1925, and Decision No. 15129 in Applications Nos. 11106 and 11069, dated July 3, 1925;

3. Passengers, baggage and express between the Nevada state line near Doyle and Westwood and intermediate points, granted by Decision No. 7506 in Application No. 5363, dated April 30, 1920, and Decision No. 15129 in Applications Nos. 11106 and 11069, dated July 3, 1925;

4. Passengers, baggage and express between Westwood and Greenville, on the one hand, and Crescent Mills and Greenville, on the other hand, granted in Decision No. 15129 in Applications Nos. 11106 and 11069, dated July 3, 1925;

(Said Decision No. 15129 granted to applicant the right to operate one unified system of through service for the transportation of passengers, baggage and express between all the termini named in Applications Nos. 11106 and 11069 and the intermediate points; express service being limited to the transportation of packages on passenger stages; and freight service only over and along the route between Keddie, Crescent Mills, Greenville, Forest Camp, Canyon Dam, Prattville, Almanor Inn, Chester, Drakesbad and intermediate points.)

5. Passengers, baggage and express between Mineral and Lake Helen and intermediate points, via Supan Sulphur Works, granted in Decision No. 15099 in Application No. 11007, dated June 25, 1925, and Decision No. 15479 in Application No. 11671, dated October 1, 1925;

6. Passengers, baggage and express between Chico and Westwood and intermediate points; between Westwood and Susanville and intermediate points, and between Chester and Juniper Lake, granted in Decision No. 15479 in Application No. 11671, dated October 1, 1925;

(All of which operative rights were consolidated and unified by order of the Commission in its said Decision No. 15479 so as to enable applicant to render service in accordance with the foregoing rights between all termini and intermediate points served by and along the routes covered by said rights.)

7. Passengers and baggage between Susanville and Doyle and intermediate points, granted and linked with other operative rights by applicant by Decision No. 15647 in Application No. 11787, dated November 20, 1925;

8. Passengers, baggage, freight and express between Mineral and a point on the boundary line of Lassen Volcanic National Park, about 13½ miles from Manzanita Lake and intermediate points, via Viola and

Manzanita Lake, granted by Decision No. 16006 in Application No. 12506, dated February 15, 1926;

9. Passengers and baggage between Oroville and Swayne's Logging Camp and intermediate points; freight between Oroville and Merrimac and intermediate points; packages between Oroville and Swayne's Logging Camp; passengers, baggage and freight between Swayne's Logging Camp and Buck's Ranch, authorized by Decision No. 16555 in Application No. 12745, dated April 23, 1926;

10. Passengers, baggage, freight and express between Quincy and Buck's Ranch and intermediate points, granted by Decision No. 17215 in Application No. 13066, dated August 13, 1926;

11. Passengers, baggage, freight and express between Keddie and Quincy and intermediate points, granted by Decision No. 18052 in Application No. 13231, dated March 14, 1927.

12. The authority herein granted permitting express operations between Oroville and Buck's Ranch and intermediate points; freight operations between Merrimac and Swayne's Logging Camp and intermediate points and also freight operations between Chester and Mineral.

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted to Mt. Lassen Transit Company, a corporation, for the foregoing express service between Oroville and Buck's Ranch and freight service between Merrimac and Swayne's Logging Camp and between Chester and Mineral, and that permission and authority is hereby granted for the adjustment and increase of certain inconsistent rates now appearing in the tariffs of applicant, as proposed in Exhibits "A," "B" and "C" attached to said application.

It is hereby further ordered, that a certificate of public convenience and necessity be and the same is hereby granted to Mt. Lassen Transit Company, a corporation, to consolidate all operative rights now owned by said applicant and herein granted to said applicant for the transportation of passengers, baggage, freight and express.

The authority herein granted to consolidate and unify all the operative rights now owned by applicant and the operative rights as granted herein are subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

2. Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariffs of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of

said service within a period of not to exceed sixty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this twelfth day of November, 1927.

DECISION No. 19034.

IN THE MATTER OF THE APPLICATION OF PALOS VERDES WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE SALE OF FIVE HUNDRED SHARES OF ITS CAPITAL STOCK TO THE BANK OF ITALY, NATIONAL TRUST AND SAVINGS ASSOCIATION.

Application No. 14096.

Decided November 12, 1927.

SECURITY ISSUE—STOCK.—Palos Verdes Water Company authorized to issue and sell \$50,000 of its common capital stock and to use proceeds to pay in part indebtedness due the Bank of Italy, National Trust and Savings Association, as trustee for the project.

Woodruff, Musick, Pinney and Hartke, by *Harold J. Richardson*, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Palos Verdes Water Company asks permission to issue and sell, at par, for cash, 500 shares of its common capital stock of the aggregate par value of \$50,000 for the purpose of paying indebtedness due the Bank of Italy, National Trust and Savings Association, trustee, for the Palos Verdes project.

Palos Verdes Water Company was organized on or about March 15, 1924. By Decision No. 14151, dated October 9, 1924, the company was granted permission to operate the water system in the Palos Verdes project and was authorized to issue at par \$300,000 of common stock to acquire and install a water system in part of such project. Subsequently by Decision No. 15284, dated August 13, 1925, the company was authorized to issue and sell at par on or before March 1, 1926, \$200,000 of additional stock subject to the condition that the proceeds obtained from the sale of such stock might be expended only as author-

ized by the Commission in supplemental orders. None of the \$200,000 of stock has been issued.

The company, however, reports that up to June 30, 1927, the Bank of Italy, National Trust and Savings Association, as trustee for the Palos Verdes project, advanced to applicant \$50,523.64 which was expended by applicant for the purpose of paying for extensions, additions and betterments to its water system. For the purpose of paying \$50,000 of the indebtedness applicant asks permission to issue and sell, at par, for cash, to the Bank of Italy, National Trust and Savings Association, \$50,000 of its common capital stock.

It is of record that applicant's water system is still under process of construction and that approximately one-third of the system has been completed. The money which is being invested in this water system is advanced by the trustee under the trust covering Palos Verdes project. It appears that in effect the purchasers of real estate situate in the Palos Verdes project provide the funds for the construction of applicant's water system. All of the stock which applicant has issued and the stock which it asks permission to issue in this proceeding will be owned by the trust under which Bank of Italy, National Trust and Savings Association, is trustee. The testimony shows that at present applicant has 102 consumers and that the operating revenues for the nine months ending September 30, 1927, amounted to \$17,689.08 and the operating expenses, exclusive of depreciation, to \$15,418.06.

ORDER.

Palos Verdes Water Company having asked permission to issue \$50,000 of its common capital stock, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income; therefore,

It is hereby ordered, that Palos Verdes Water Company may issue and sell for cash on or before March 1, 1928, \$50,000 of its common capital stock and use the proceeds obtained from the sale of such stock to pay in part the indebtedness due to the Bank of Italy, National Trust and Savings Association, as trustee for the Palos Verdes project.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof, and that Palos Verdes Water Company shall file with the Railroad Commission a report or reports as required by the Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twelfth day of November 1927.

DECISION No. 19035.

SAN JOAQUIN GROCERY COMPANY

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION; THE ATCHISON,
TOPEKA AND SANTA FE RAILWAY COMPANY, A CORPORATION.

Case No. 2347.

Decided November 12, 1927.

REPARATION.—Complaint seeking reparation on shipments alleged to have been erroneously classified as "wrapping paper" rather than "fruit trays" dismissed.

SCHEDULES AND TARIFFS—CONSTRUCTION AND APPLICATION.—Chemically treated and sized paper used for drying fruits are not "fruit trays," but fall within the description "wrapping paper" or "fruit drying paper."

SCHEDULES AND TARIFFS—CONSTRUCTION AND APPLICATION.—"* * * it is the character of an article from a transportation standpoint, and not the use to which parties may contract that it shall be put, that determines the rate or rating applicable." (*Chase Companies vs. Director General*, 81 I. C. C. 207.)

Gwyn H. Baker and F. M. Hill, for Complainant.

Platt Kent and Berne Levy, for The Atchison, Topeka and Santa Fe Railway Company, Defendant.

F. W. Mielke and L. N. Bradshaw, for Southern Pacific Company, Defendant.

BY THE COMMISSION.

OPINION.

Complainant is a corporation engaged in the manufacture and sale of merchandise and among the commodities dealt in are paper fruit trays. By complaint filed April 7, 1927, it alleges that the defendants erroneously classified certain shipments claimed to be fruit trays as wrapping paper, and that therefore the charges exacted on 43 carloads shipped during the period July 8, 1925, to August 18, 1926, inclusive, from Los Angeles to various destinations in the State of California, were unjust, unreasonable and excessive and in violation of the Public Utilities Act of the State of California and section 13 thereof.

Reparation and just and reasonable rates for the future are sought. Rates will be stated in cents per 100 pounds.

A public hearing was held before Examiner Geary at San Francisco October 7, 1927, and the case having been submitted is now ready for an opinion and order.

The shipments in question consisted of a chemically treated and sized paper used for drying fruits, especially grapes, and moved in carload lots from Los Angeles to destinations in the San Joaquin Valley on rates ranging from 48 to 62 cents, according to destination. The article was invoiced as "Kraft tray paper" and the bills of lading prepared by the consignor show the following various descriptions: Wrapping paper, raisin tray paper and also Kraft tray paper. Of the shipments 26 moved over the Southern Pacific and 17 over The Atchi-

son, Topeka and Santa Fe. Commodity rates shown in Item 6640 of Southern Pacific Tariff 730-C, C. R. C. 2904, and Item 1822 of The Atchison, Topeka and Santa Fe Tariff 12375-F, C. R. C. 546, and reissue thereof were assessed. The commodity descriptions of the above items are identical and read: Paper, wrapping, minimum weight 40,000 pounds.

Defendants are parties to Pacific Freight Tariff Bureau Exception Sheet 1-Series, which provides for Class "B" rating on "Trays, fruit, carload minimum weight 20,000 pounds."

Complainant contends that the shipments were trays and not wrapping paper; that the process of manufacture, the procedure of packing and the purpose for which used distinguishes the article entirely from any relation to wrapping paper and that the Class "B" rating defined in the Exception Sheet is the proper basis for assessing charges.

The commodity in question consists of paper cut in sheets 24 by 36 inches and when shipped is packed flat in bundles comprising 960 sheets and weighing 70 pounds per bundle. It is sold by weight and when used the sheets are spread out on the ground and the fresh grapes or other fruits are placed thereon for the purpose of drying.

A witness for complainant testified that the so-called paper trays have been used in the raisin business for approximately 30 years; that the shipments involved in this proceeding were manufactured from Swedish pulp and that paper made from such pulp is stronger and more durable than paper manufactured from Oregon or Washington pulp. A sample of what comprised complainant's shipments was submitted as Exhibit No. 1, and this exhibit was in appearance simply a piece of strong wrapping paper.

A witness called in behalf of defendants testified there was no material difference between the paper involved in this proceeding and the Kraft tray paper manufactured from Oregon or Washington pulp, that the paper used for drying fruits can be used for general wrapping purposes and when shipped is put up in either bundles or rolls.

Witness for defendant Southern Pacific read into the records a letter dated February 13, 1924, and signed by complainant's traffic manager requesting a commodity rate of 51½ cents on wrapping paper, carload, from Los Angeles to Fresno. This request was investigated and complainant's representative stated that the wrapping paper referred to was to be used for drying raisins.

Prior to June 20, 1924, complainant paid the fifth class rates of 61 cents and 62 cents respectively to Fresno and Riverdale from Los Angeles on carload shipments of the so-called paper trays, and on and after that date commodity rates on wrapping paper of 48 cents to Fresno and 50 cents to Riverdale were assessed.

The complaint does not allege the rates on wrapping paper are unreasonable per se but maintains the commodity is not wrapping paper but is in fact paper fruit trays, therefore subject to the Exception Sheet Class "B" rates.

Webster's dictionary defines trays as follows:

"A shallow wooden trough or bowl or a basket for domestic purposes. Hence: Any shallow receptacle for holding or carrying articles: as, a peddler's tray, a tray of diamonds, a trunk tray, a flat plate, as of tin, silver, or papier-mache, with a low rim; as a pin, tea, or ash tray."

In Docket No. 13666, *Chase Companies vs. Director General, as Agent*, 81 I. C. C. 207, the Federal Commission in considering the class rates applicable on brass cartridge cases, said:

"Under its contract these articles were valuable to complainant as scrap brass and for remelting purposes only. But it is the character of an article from a transportation standpoint, and not the use to which parties may contract that it shall be put, that determines the rate or rating applicable."

Defendants point out that the Western Classification does not provide any rating on fruit trays and that a Class "B" rating to cover this commodity has been carried in Pacific Freight Tariff Bureau Exception Sheet since November 26, 1909, for the purpose of providing for wooden fruit trays the same rates as apply to box shook and other forest products. The evidence and exhibits are not persuasive that the shipments here involved should have moved under the Class "B" rates. Effective July 1, 1927, defendants established specific commodity rates from Los Angeles to San Joaquin Valley points on "paper, fruit drying, carload, minimum weight 40,000 pounds," applicable on the commodity involved in this proceeding, therefore no order for the future will be required.

After giving consideration to all of the evidence, exhibits and briefs, we find that the shipments involved in this proceeding fall within the description "wrapping paper" or "fruit drying paper." We further find that the rates charged were applicable and were not excessive, unjust or unreasonable. The complaint will be dismissed.

ORDER.

This case being at issue upon complaint and answer on file, having been duly heard by the interested parties, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the complaint in this proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this twelfth day of November, 1927.

DECISION No. 19036.

CASTRO VALLEY IMPROVEMENT CLUB, AN UNINCORPORATED
ASSOCIATION,

vs.

EAST BAY WATER COMPANY, A PUBLIC SERVICE CORPORATION.

Case No. 2197.

Decided November 12, 1927.

SERVICE—WATER UTILITY—EXTENSIONS.—Complaint seeking extension of distribution system of East Bay Water Company throughout Castro Valley, Alameda County, dismissed. Defendant directed to supply such territory from surplus water if and when the people thereof form a responsible organization for receiving and distributing such water and have installed facilities therefor.

SERVICE—DUTY OF UTILITY TO RENDER—EXTENT OF DEDICATION.—When a territory is wholly beyond the present area in which a water utility has dedicated its supply, the utility has never held itself to serve any portion of that territory, and the cost of installing a proper system would not be compensatory, the Commission is not justified in directing extension of service, although the utility may be required to supply the area from such surplus waters as may be available over and above requirements of present and future consumers within its dedicated area.

Frank H. Arb, for Complainant.

McKee, Tasheira and Wahrhaftig, by *A. G. Tasheira*, for Defendant.

J. W. Lupton, for East Bay Municipal Utility District, Protestant.

Clark, Nichols and Elts, by *George Clark*, for Alameda County Water District.

J. F. Maynard, for Oro Loma Sanitary District.

WHITSELL, Commission.

OPINION.

This is a complaint filed by the Castro Valley Improvement Club against the East Bay Water Company, a corporation, requesting the Commission to direct the said water company to extend its distribution system to supply the residents of Castro Valley, Alameda County, with water for domestic and other purposes. The complaint in this proceeding alleges that defendant now serves water to lands and residences adjacent to Castro Valley, that it has an ample water supply for the service desired herein, and that there is no water system, other than that owned and operated by defendant, available to furnish water to the territory and residents represented by complainant.

The answer of East Bay Water Company denies generally the allegations set out in the complaint, and in addition thereto alleges that Castro Valley is in nowise a part of the territory in which defendant has undertaken to supply water, that defendant has not the water supply available for additional or new territory and can not assume the responsibilities to serve this new area without impairing its ability and obligations to serve properly its existing consumers. Defendant therefore asks that the complaint be dismissed.

A public hearing in this matter was held at Hayward after all interested parties had been duly notified and given an opportunity to appear and be heard.

Castro Valley is located about two miles northeast of the town of Hayward on the Dublin Pass state highway, and comprises a district of approximately five square miles in area with a population at present estimated to be somewhat in excess of 1200. Although this district enjoys public utility electric, telephone and to some extent gas service, yet there is no comprehensive water system supplying the community. Water is obtained from individual wells which, by reason of the increased demand of the growing district and also because of the several years of inadequate rainfall, have already decreased in production to such an extent as to be inadequate for present requirements. In addition to the depleted water yield, the lack of proper sewage disposal and the many chicken ranches in the community have resulted in the contamination and pollution of many of the wells which must be depended upon for domestic water, so that the present conditions urgently demand an additional water supply from outside and uncontaminated sources.

The defendant East Bay Water Company serves water as a public utility to consumers from the city of Richmond in Contra Costa County on the north, to a point not far from the city limits of the town of Hayward on the south, in Alameda County. Defendant now maintains a small storage tank, designated as Meek tank, which is located on a low ridge at the entrance to Castro Valley. Water is pumped from the defendant's Alvarado and Roberts Landing wells to the Meek tank, from which a small group of consumers living near the junction of Foothill boulevard and Castro Valley road, some distance north of Hayward, are supplied with water.

As the area in which complainant desires service has no facilities for the general distribution of water, it will be necessary to install a complete storage and distribution system before water can be delivered to the residents of the valley. Two plans for water supply were proposed by Jesse B. Holly, consulting engineer for complainant. One of these plans contemplated the use of pumped water from defendant's present wells to storage at a point above and not far from the present Meek tank, which would be relocated and enlarged. The other plan proposed by Holly provides for obtaining water from the defendant's Upper San Leandro reservoir, from which it would be released to flow down the natural channel of San Leandro Creek to be recovered at a point near the head of Lake Chabot and thereafter pumped against a head of 350 feet to a reservoir of 100,000 gallons capacity located at an elevation of 500 feet. This proposed installation, including the

necessary distribution system consisting of 68,580 feet of four- and six-inch cast iron pipe, was estimated by Holly to cost approximately \$88,310. This amount, however, does not include the cost of meters and service connections and filtration equipment which are items of considerable importance. Mr. Holly further sets out in his report that the annual revenues which could be obtained from the consumers to be served by this extension would be \$20,880.

George H. Wilhelm for the East Bay Water Company estimated that the cost of the necessary installation to properly serve the Castro Valley would be \$164,153 and that the revenues to be received would be far less than the amount claimed by complainant, for the reason that the majority of the residents would continue to use their private wells and pumping plants for sprinkling and irrigation purposes which would, according to Wilhelm, greatly reduce the actual use of water which complainant assumed would be used.

Written protest was filed by J. W. Lupton, appearing for the East Bay Municipal Utility District, a municipal corporation, alleging in effect that said district includes a territory coincident with the boundaries of the following incorporated cities and towns in Alameda and Contra Costa counties, namely, Oakland, Berkeley, Alameda, Piedmont, San Leandro, Richmond, Emeryville, Albany and El Cerrito; that it is the intention of said district to take such steps as are required by law for the acquisition of the properties and distributing system of the East Bay Water Company; that the permits for water which the district seeks to acquire from outside sources do not embrace the use of such waters for irrigation purposes; that the said district will be handicapped in its administration of those properties if the services of the East Bay Water Company are extended to points outside of the boundaries of the district, especially so if such services include irrigation use; and that there is at present a serious shortage in the East Bay Water Company's supply available to serve the existing communities which have a prior right to service. It is further alleged that the district contemplates the bringing into its area of an additional supply of water from the Mokelumne River and that when this development is completed and it is possible to ascertain what surplus waters are available for distribution without its boundaries, then in that event complainants may be given service from such surplus waters. The Commission therefore is asked not to direct defendant East Bay Water Company to extend its service area to embrace territory without the boundaries of the district to the residents of Castro Valley, and to dismiss the complaint.

Protest against the granting of the request of complainant herein for extension of water service to Castro Valley was also made by the Alameda County Water District, by its attorney George Clark, upon

the grounds that the East Bay Water Company has not a sufficient water supply for its present requirements; that to obtain water for the extension of service to complainants resort must be had to increased pumping operations, which will draw upon the underground waters within the area of the Alameda County Water District, thereby inflicting serious injury and damage to and upon the private landowners within said water district.

In view of the protest of the East Bay Municipal Utility District against the extension of service by defendant to territory outside of the district boundaries, it should be pointed out at this time that this company already serves a considerable number of consumers in areas outside of said boundaries and in fact is so serving from the Meek tank in the general vicinity of Castro Valley. The fact that the present water supply of the company is not handicapped with reservations against the use of its waters for irrigation purposes should be sufficient to enable the Utility District to avoid any difficulties which might possibly arise in the future over the use of its waters from distant sources being put to agricultural uses against express prohibitions in the permits authorizing the appropriations of such waters.

The entire area served by East Bay Water Company is now and for several years last past has been experiencing a very rapid increase in growth, which will unquestionably soon tax the water resources of the company severely. Several large acreages of property lying north of the present southern limits of this system are now being subdivided and placed upon the market as residential property. Provisions, of course, must be made in some manner to take care of the growing demands of this company's service area. Therefore, in reply to the protest of the Alameda County Water District, it should be noted in fairness to the complainant that the total number of consumers involved in the service to the entire Castro Valley is less than half the average number of new consumers added each month throughout the defendant's whole system.

The evidence presented in this proceeding shows that Castro Valley is wholly beyond the present area in which defendant has dedicated its water supply to the public use and that the defendant has not at any time ever held itself out to serve water to any portion of this territory to which complainant now desires water service extended. It furthermore appears from the evidence that, because of the large area covered and the widely scattered location of the houses therein, the cost of installing a proper water system to supply this territory would not be compensatory at this time. The Commission therefore would not be justified under these circumstances in directing defendant, East Bay Water Company, to make the extension of its water mains to serve Castro Valley residents.

The Commission, however, is very strongly impressed with the urgent need of this community for an adequate and uncontaminated water supply and recognizes the seriousness of the increasing menace to health resulting from the present methods of obtaining water. As there is no other source of supply available in sufficient quantity other than from the East Bay Water Company's system, the Commission has suggested to this company that it furnish the necessary water for Castro Valley from some point upon its present system, provided the people, themselves, install the necessary distribution facilities and connecting pipe lines, and provided further that by so doing there will be no interference with the prior rights of the consumers within the dedicated area of this utility to water in times of water shortage. The evidence shows that the water supply of East Bay Water Company is at times barely sufficient to meet the needs of its consumers during periods of peak seasonal demand in the territory in which it holds itself out to serve. This order therefore will provide for the delivery to Castro Valley users only of such surplus waters as East Bay Water Company may have available over and above the requirements of its present and future consumers within its dedicated service area, and, in the event of a scarcity of water for its regular consumers, this company may discontinue the service herein permitted. The East Bay Water Company, by letter dated May 13, 1927, has consented to this arrangement. Should this plan be acceptable to the residents of Castro Valley, it is suggested that some type of responsible organization, such as a water district, mutual water company, or otherwise, be formed for the purpose of installing and operating a water system whereupon arrangements can be made to obtain water from the East Bay Water Company at a point of delivery to be mutually agreed upon.

This complaint therefore will be dismissed with the understanding that East Bay Water Company will furnish a water supply from its surplus waters, if any, in reasonable amounts for the use of the people of Castro Valley at a point to be mutually agreeable to consumers and company, if and when the said people of Castro Valley form a responsible organization for receiving and distributing such water and have installed the necessary facilities therefor.

ORDER.

Castro Valley Improvement Club having made complaint as entitled above, requesting this Commission to direct the East Bay Water Company, a corporation, to extend its distribution system throughout the Castro Valley, in Alameda County, for the purpose of supplying the inhabitants of said valley with water for domestic and other purposes, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully informed thereon;

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It is hereby ordered, that the East Bay Water Company supply the Castro Valley area with water from such surplus waters as may be available over and above the requirements of its present and future consumers within its dedicated area, and subject to the further conditions and limitations set out in the foregoing opinion.

It is hereby further ordered, that in all other respects, for the reasons stated in the foregoing opinion, the above entitled proceeding be and it is hereby dismissed.

The effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twelfth day of November, 1927.

DECISION No. 19037.

CALIFORNIA PACKING CORPORATION

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY.

Case No. 2408.

Decided November 12, 1927.

REPARATION.—Atchison, Topeka and Santa Fe Railway Company directed to refund to complainant all charges collected in excess of eight and one-half cents per one hundred pounds for transportation of thirty-one carloads of second-hand empty boxes moved from Hanford to Calpack during the period July 1 to September 2, 1926.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the state of New York, with its principal place of business at San Francisco, is engaged in the packing of dried fruits and canned goods.

By complaint filed September 7, 1927, it alleges that the rate assessed and collected on 31 carloads of second-hand empty boxes, returned or shipped for a return paying load from Hanford to Calpack during the period from July 1 to September 2, 1926, inclusive, was unreasonable and in violation of section 13 of the Public Utilities Act to the extent it exceeded a rate of 8½ cents per 100 pounds.

Calpack is a nonagency station 80 miles north of Hanford and two miles south of Tuttle; however, during the period that the shipments involved in this proceeding moved, it was not shown in defendant's tariff or distance table.

Charges were assessed and collected on the basis of 10½ cents, the Class "E" rate, shown in defendant's Tariff 9885-E, C. R. C. 504, the distance rate for 82 miles. Defendant published, effective July 20, 1927, Supplement No. 45 to its Distance Table C. R. C. No. 60 and Calpack was shown therein. The distance from Hanford to Calpack is 80 miles and the Class "E" rate for this distance is 8½ cents, shown on page 302 of defendant's Tariff 9885-E, C. R. C. 504.

Complainant bases its plea for reparation upon the lawful rate applicable on empty boxes, returning, for distances not exceeding 80 miles, which was and is the exact distance between the points involved in this proceeding. Defendant admits the allegation of the complaint and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unreasonable to the extent it exceeded a rate of 8½ cents; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation in the sum of \$78.20 with interest at the rate of 6 per cent per annum.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, The Atchison, Topeka and Santa Fe Railway Company, be and it is hereby authorized and directed to refund with interest at the rate of 6 per cent per annum to complainant, California Packing Corporation of San Francisco, California, all charges it may have collected in excess of 8½ cents per 100 pounds for the transportation of 31 carloads of second-hand empty boxes moved from Hanford to Calpac during the period from July 1 to September 2, 1926, inclusive.

Dated at San Francisco, California, this twelfth day of November, 1927.

DECISION No. 19040.

IN THE MATTER OF THE APPLICATION OF GREAT WESTERN POWER COMPANY OF CALIFORNIA FOR AUTHORITY TO ISSUE AND SELL TWO MILLION FIVE HUNDRED THOUSAND DOLLARS PAR VALUE OF COMMON STOCK.

Application No. 14111.

Decided November 12, 1927.

SECURITIES—STOCK—FORM OF CERTIFICATE.—Supplemental order made approving form of stock certificate in connection with stock issue authorized by Decision No. 18961.

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the order in Decision No. 18961, dated October 25, 1927, provides that the authority to issue the \$2,500,000 of common stock, referred to in said order, will not become effective until the Railroad Commission has entered its supplemental order specifying that Great Western Power Company of California has adopted a form of certificate for such common capital stock as directed by the opinion in said decision; and

Whereas, Great Western Power Company of California at a meeting of its board of directors held on October 31, 1927, adopted a form of common stock certificate which form includes the language directed to be therein included by said Decision No. 18961; and

Whereas, Great Western Power Company of California has filed with the Railroad Commission a certified copy of said form of stock certificate:

The Railroad Commission of California hereby finds as a fact that the Great Western Power Company of California has adopted a form of stock certificate for the common capital stock authorized to be issued by said Decision No. 18961, dated October 25, 1927, containing the language directed to be inserted therein, in compliance with said Decision No. 18961.

Dated at San Francisco, California, this twelfth day of November, 1927.

DECISION No. 19043.

IN THE MATTER OF THE APPLICATION OF PEERLESS STAGES, INC., FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO STAGE LINE FOR THE TRANSPORTATION OF PASSENGERS AND BAGGAGE BETWEEN NEWARK AND PALO ALTO, AS AN EXTENSION OF AND IN CONJUNCTION WITH ITS EXISTING OPERATIVE RIGHTS BETWEEN NEWARK AND SUNOL.

Application No. 13179.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CHANGE ROUTE FOR A PORTION OF ITS SERVICE BETWEEN LIVERMORE AND SAN FRANCISCO, AND TO RENDER CERTAIN INTERMEDIATE SERVICE ON SAID ROUTE AS CHANGED.

Application No. 13469.

Decided November 14, 1927.

CERTIFICATE—AUTOMOTIVE TRANSPORTATION.—Peerless Stages, Inc., authorized to operate auto stages for transportation of passengers, baggage and express between Pleasanton and Palo Alto and Menlo Park and intermediate points, via Dumbarton bridge.

Earl A. Bagby and *L. G. Markel*, for California Transit Company, Applicant.

Harry A. Encell and *Frank B. Austin*, for Peerless Stages, Inc., Applicant.

H. W. Hobbs and *A. A. Jones*, for Southern Pacific Company, Protestant.

I. R. Dains, for Market Street Railway Company, Protestant.

J. E. McCurdy, for Peninsula Rapid Transit Company and Pacific Auto Stages, Inc., Protestants.

R. M. Nelson and *A. L. Crawford*, for Nelson Stage Line and Base Hospital.

BY THE COMMISSION.

OPINION.

By its application, as amended, Peerless Stages, Inc., petitions the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile stage line for the transportation of passengers, baggage and express between Pleasanton and Menlo Park via Dumbarton bridge, as an extension of, and in conjunction with, its existing operative rights between Newark and Sunol and intermediate points.

Applicant relies as justification for the granting of the proposed certificate upon an alleged necessity for means of passenger transportation by communicating auto stage carriers between points on the peninsula from San Francisco to San Jose, on the one hand, and Alameda County and San Joaquin Valley points on the other hand, via Dumbarton bridge.

The requirements as to tariffs, time schedules and equipment are all duly set forth in the body of the application.

California Transit Company by its amended application petitions the Railroad Commission for an order declaring that public convenience and necessity require the rerouting by it of a portion of its service now operating between Livermore and San Francisco, via Pleasanton, Sunol, the Dumbarton bridge, Redwood City and South San Francisco.

It is proposed to install at least one schedule a day so as to furnish an alternative service for passengers who desire through service. It is further set forth that the stages of this line would connect at Livermore with its operations into the San Joaquin and Sacramento valleys and south to Los Angeles.

Applicant does not propose to render any local or intermediate passenger service between San Francisco and the easterly terminus of Dumbarton bridge, both inclusive; nor does applicant propose to render any local or intermediate service between San Francisco, on the one hand, and points in the territory intermediate to Newark and points west of Sunol, on the other hand; nor does applicant propose to render any local or intermediate passenger service between Newark and Sunol, both inclusive, including all intermediate points. Subject to these limitations, applicant does propose to pick up and discharge passengers at all points on said proposed route who are destined to, or arriving from, points on the present transportation system of applicant or points on the proposed route of applicant not within the above exceptions.

Applicant introduced in evidence an exhibit showing a consolidation of the time schedules of proposed operation by California Transit Company in conjunction with Peerless Stages, and offering direct connections at Pleasanton for passengers desiring to go from points east of Pleasanton, Livermore or Stockton to points served by Peerless Stages, such as Menlo Park and Palo Alto, and giving through service from Livermore to San Francisco by California Transit Company.

Applicant sets forth on page 4 of its application data regarding rates to be charged for the proposed service, as well as time schedules and equipment.

Public hearings on said applications were had before Examiner Gannon at San Francisco, at which time the matters were consolidated for the purpose of receiving evidence, and they are now ready for decision.

The Southern Pacific Company, Peninsula Rapid Transit Company and Pacific Auto Stages protested the granting of both applications, while the Market Street Railway directed its protest against the granting of the application of California Transit Company. Many witnesses were called in support of each application and all testified as to the demand and need for the proposed service.

The present means of transportation between Alameda County points involved in this application and points on the peninsula is either by way of San Jose and up the peninsula or through Oakland and San Francisco and thence down the peninsula, and both of these methods were the subject of serious complaint by many witnesses. As illustrative of the present rail service connecting both sides of the bay, we may refer to the testimony of witnesses respecting the service from Pleasanton to Redwood City. A passenger leaving Pleasanton on the 12.48 p.m. Southern Pacific train is unable to reach Redwood City via Oakland and San Francisco until 4.01 p.m., the time actually consumed en route being three hours and thirteen minutes over a distance of 72 miles and involving three changes, the fare being \$2.64. The evidence

shows that by either of the proposed stage routes across Dumbarton bridge between the above points the distance would be 27 miles, the time one hour and twelve minutes and the fare approximately \$1.

The testimony indicates a very decided demand for stage service across Dumbarton bridge which would furnish easy and adequate transportation between points on the peninsula and Alameda county and beyond. As typical of this demand the testimony of Mrs Sarah H. Heine, a witness supporting the application of Peerless Stages, may be adverted to. Mrs. Heine is the president of the Heine Piano Company of San Francisco, and resides in Sunol. She testified that her business brought her to various peninsula towns where she maintains agencies as often as four times a month. She comes to San Francisco every day by stage via Niles and Oakland, returning at night on a Western Pacific train. Such trips as are made via the Dumbarton bridge are made in her own car, necessitating the employment of a driver. Witness declared she would use a stage route across Dumbarton bridge for all points on the peninsula, relying on connections at Menlo Park or Palo Alto, which were generally satisfactory. Asked why she did not use Southern Pacific trains between Sunol and San Francisco, witness stated that the morning train from Sunol and the evening train from San Francisco departed too early to suit her convenience. For traffic flowing eastwardly from lower peninsula points it was pointed out in testimony offered by Southern Pacific witnesses that the fastest running time of trains from Redwood City to Stockton, via San Jose, was three hours and fifty-five minutes.

Peninsula Rapid Transit Company, one of the protestants in this proceeding, offered in evidence a time schedule indicating a thirty-minute service between Palo Alto and San Francisco and intermediate points and also a twenty-minute service in conjunction with Pacific Auto Stages. The local run between Palo Alto and San Francisco takes all passengers, save those destined for San Francisco, and stages of the Peninsula Rapid Transit Company and Pacific Auto Stages take nothing but San Francisco passengers at Palo Alto.

This protestant also introduced in evidence an exhibit purporting to show that during the first five months of the present year their passenger stages running north out of Palo Alto to all local points, except San Francisco, were 88 per cent empty. The evidence seemed to indicate that the protests of both the above mentioned stage lines were primarily directed against the application of Peerless Stages, which, as amended, sought to serve Menlo Park and Palo Alto as terminals.

Market Street Railway Company, protesting only the application of California Transit Company, gave, through its counsel, a summary of the service rendered by it. This electric line operates between San

San Francisco and San Mateo on a ten-minute headway during the daytime, with a gradually lengthening headway from 6 o'clock in the evening throughout the night.

The protest of Nelson Stage Line was directed only against the application of Peerless Stages because of the fact that Nelson operates a bus service from the United States Veterans' Hospital to Palo Alto, said hospital being located intermediate between Menlo Park and Palo Alto. The Nelson Stage Line withdrew its protest against Peerless Stages when the latter, by stipulation, agreed not to carry local passengers between the Veterans' Hospital and Palo Alto.

In view of the fact that California Transit Company does not propose to carry passengers between San Francisco and San Mateo, or between San Francisco and any of the intermediate points, or between South San Francisco or any points south, the Market Street Railway Company withdrew its protest against said application.

The service proposed by Peerless Stages contemplates three round trips daily between Menlo Park and Pleasanton and an additional trip between Centerville and Menlo Park. On the Alameda side it is proposed to extend service from Sunol to Pleasanton, which extension is not protested by California Transit Company, the present carrier serving that portion of the route. Some thirty-five witnesses from both sides of the bay were called to testify in support of the application of Peerless Stages. The president and general manager of this company testified that he had made an investigation extending over several weeks, the result of which convinced him there was a public demand for the service here proposed.

The application as originally filed designated Palo Alto as the westerly terminus of the proposed route, but according to the testimony of the president the demand for the inclusion of Menlo Park as one of the termini at this end was so strong that he was forced to amend his application by including that community also.

This applicant proposes to deliver its passengers over to the existing transportation lines either at Menlo Park or Palo Alto and the testimony of practically all witnesses was to the effect that such change would not be inconvenient. The particular route at the westerly terminus, as described by applicant, would be from Newark across Dumbarton bridge and thence to Palo Alto and on the main highway to Menlo Park. At this point stages would turn and go back to Palo Alto, thence retracing the same route across the bridge to Pleasanton. The routes of both applicants are practically parallel from Pleasanton to the western terminus of Dumbarton bridge.

Applicant Peerless Stages, in addition to local service between Menlo Park and Pleasanton, proposes to furnish service through Livermore, Sacramento and Stockton to Los Angeles by means of its combined

schedules. Passengers from Alameda County would obtain service across the bridge and get into contact with other carriers on the peninsula, so that they may go either north or south on the highway. No intermediate service is proposed between Menlo Park and Palo Alto and any fares picked up at Menlo Park would not be dropped at any point west of Newark. It is proposed to form direct contact at Pleasanton with stages of the California Transit Company so that a passenger boarding a Peerless stage at Menlo Park may connect at Livermore with stages of the California Transit Company operating into the San Joaquin Valley.

Letters from various chambers of commerce and improvement clubs were introduced in evidence on behalf of both applicants.

The San Mateo Heights Improvement Association protested the granting of either application upon the ground that the peninsula from San Francisco to San Jose is adequately supplied with transportation facilities and that no public demand exists for such service across Dumbarton bridge as is contemplated by applicant in this proceeding. The chambers of commerce of Pleasanton, Sunol, Centerville, Newark and Niles favor the granting of the application of Peerless Stages, while the San Bruno Chamber of Commerce endorsed the application of California Transit Company. The Palo Alto Chamber of Commerce favors the inauguration of bus service connecting the peninsula with east bay points and the San Joaquin Valley across Dumbarton bridge, but did not go on record as favoring any particular applicant.

A considerable number of students at Stanford University located at Palo Alto reside in Alameda County and various witnesses testified to the convenience which the proposed transportation would afford to such students.

We have given careful consideration to all of the evidence in this proceeding and conclude therefrom that a means of stage transportation across Dumbarton bridge is both necessary and convenient.

The evidence shows that residents of Alameda County strongly desire a system of transportation over Dumbarton bridge connecting Alameda County with peninsula points and that there is some demand for an express service over the route herein sought. There was no protest against either application so far as express service is concerned.

The opening of the Dumbarton bridge on January 17, 1927, undoubtedly furnished a more direct line for traffic from Alameda County to points on the peninsula south of San Francisco and north of San Jose. One line will adequately serve the purpose—two would be superfluous. Nothing is to be gained by through service, the weight of testimony being to the effect that prospective passengers desire chiefly to get across the bay by this route and put themselves in contact with stage or rail lines transferring to their destination.

It is apparent from the testimony that the local service of Peerless Stages from Newark to Menlo Park and Palo Alto will answer all requirements and we conclude, therefore, that the application of Peerless Stages should be granted. In fact, counsel for California Transit Company testified during the course of this proceeding that he regarded the application of his company as secondary to that of the Peerless Stages. The reason which prompted California Transit Company to apply for a certificate, according to the testimony of this witness, was to eliminate the objection which a portion of the stage-traveling public might have to changing stages. The evidence shows, however, that such witnesses as were interrogated on this matter expressed themselves as not being averse to making a change from the Peerless Stages to some other mode of transportation, to their destination.

Upon full consideration of the evidence in this proceeding, we are of the opinion and hereby find as a fact, that public convenience and necessity require the operation by Peerless Stages, Inc., of an automobile stage service for the transportation of passengers, baggage and express as a common carrier between Pleasanton and Palo Alto via Dumbarton bridge, as an extension of and in conjunction with its existing operative rights between Newark and Sunol and intermediate points, and that the application of California Transit Company should be denied.

An order will be entered accordingly.

ORDER.

A public hearing having been held in the above entitled applications, the matters having been duly submitted, the Commission being now fully advised, and basing its order on the findings of fact set forth in the preceding opinion:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Peerless Stages, Inc., of an automobile stage service for the transportation of passengers, baggage and express as a common carrier between Pleasanton and Palo Alto and Menlo Park and intermediate points, which said intermediate points are as follows, viz: Newark, Centerville, Niles, Farwell, Brightside, Sunol and Bonita; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted to Peerless Stages, Inc., for the operation of the service herein described, subject to the conditions hereinafter set forth:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.
2. Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariff of rates and time schedules,

such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

5. No authority is herein granted for local service between Palo Alto and Menlo Park or between Palo Alto and the United States Veterans' Hospital.

It is hereby further ordered, that the application of California Transit Company be and the same is hereby denied.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this fourteenth day of November, 1927.

DECISION No. 19044.

IN THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO PURCHASE FIVE THOUSAND SHARES OF THE COMMON STOCK OF ONTARIO POWER COMPANY, A CORPORATION.

Application No. 14134.

Decided November 14, 1927.

SECURITIES—STOCK—PURCHASE BY ANOTHER UTILITY.—Southern California Edison Company authorized to purchase and hold 5000 shares of the common stock of Ontario Power Company.

SECURITY ISSUES—IN GENERAL—PURCHASE OF BY ANOTHER UTILITY.—While the Commission may authorize one utility to purchase stock of another utility in order to obtain control thereof, it does not thereby determine the amount of such purchase price which may be charged to fixed capital accounts at the time the properties of the latter utility are transferred to the former.

Roy V. Reppy and E. W. Cunningham, for Applicant.

BY THE COMMISSION.

OPINION.

Southern California Edison Company in this proceeding asks permission to purchase at \$125 per share the outstanding common stock, 5000 shares, of the Ontario Power Company.

In Exhibit No. 3 the assets and liabilities of the Ontario Power Company as of July 31, 1927, are reported as follows:

<i>Assets.</i>	
Organization	\$7,230 51
Water rights	263,000 00
Production capital	291,969 77
Distribution capital	1,081,056 34
General capital	130,099 81
Miscellaneous investment—salvage water	31,250 00
Cash and deposits	23,765 83
Accounts and notes receivable	120,753 81
Materials and supplies	35,585 77
Special sinking funds	2,504 04
Deferred debits	23,400 70
Total assets	\$2,010,616 58

<i>Liabilities.</i>	
Capital stock—common	\$500,000 00
Capital stock—preferred	475,000 00
Bonds payable	234,000 00
6% general and refunding mortgage bonds	250,000 00
5½% general and refunding mortgage bonds	150,000 00
Serial notes payable	1,500 00
Notes payable	28,300 00
Accounts payable	8,702 42
Consumers' deposits	3,006 32
Taxes accrued	33,260 26
Interest accrued	2,864 56
Unamortized premium on debt	120 00
Deferred credits	637 89
Depreciation reserve	256,431 06
Extraordinary repair reserve	3,521 31
Unappropriated surplus	63,272 76
Total liabilities	\$2,010,616 58

The common stock of Ontario Power Company is owned by San Antonio Water Company. As part of the transaction and incident to the sale of the common stock to the Southern California Edison Company, the San Antonio Water Company will convey a certain ten-acre parcel of land, together with a flow of one inch of water for use on such land, to the Edison Securities Company, a subsidiary of applicant. The San Antonio Water Company also agrees, as part of the sale, to purchase from the Ontario Power Company at a price of \$30,000 the flow of 25 inches of water now owned by Ontario Power Company, but in no way used by it in connection with the service of electric energy to its various consumers.

Applicant desires permission to purchase the common stock of the Ontario Power Company for the purpose of obtaining control of such company and its operations. It reports that upon securing control of the Ontario Power Company through the purchase of the common stock, it desires and proposes to operate the public utility property of the Ontario Power Company in connection with its electric generating and

distributing system. However, the present rates, rules and regulations will be continued in effect, until such time as permission is secured to change the same. This application does not involve the transfer of the properties of Ontario Power Company.

Ontario Power Company, according to the record, generates approximately 40 per cent of the electric energy which it distributes. The remainder of its electric energy is purchased from the Southern California Edison Company. Exhibit No. 1 shows that there is some duplication, both in the transmission and distribution systems of the Southern California Edison Company and Ontario Power Company. Upon the eventual consolidation of the two systems the duplication of lines will be eliminated. Pending the transfer of the properties of Ontario Power Company there will be no further duplicate lines constructed and service will be furnished from those lines which are most economically situate.

While the order herein will permit the Southern California Edison Company to purchase the common stock of Ontario Power Company, it should be understood by the purchaser that we have made no determination of the amount of such purchase price which may be charged to fixed capital accounts at the time the properties of Ontario Power Company are transferred to Southern California Edison Company. As said above, the transfer of the properties of Ontario Power Company is not involved in this proceeding.

ORDER.

Southern California Edison Company having asked permission to purchase the outstanding common stock of Ontario Power Company, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the acquisition of such stock by Southern California Edison Company is in the public interest, and that this application should be granted, as herein provided;

It is hereby ordered, that Southern California Edison Company may purchase and hold 5000 shares of the common stock of Ontario Power Company upon the terms and conditions set forth in the opinion which precedes this order.

It is hereby further ordered, that within thirty days after the purchase of said stock of Ontario Power Company, Southern California Edison Company shall file with the Commission a statement showing the date on which it acquired said stock and the consideration paid therefor.

Dated at San Francisco, California, this fourteenth day of November, 1927.

DECISION No. 19060.

IN THE MATTER OF THE PETITION AND APPLICATION OF THE COUNTY OF SAN LUIS OBISPO, THROUGH ITS BOARD OF SUPERVISORS, FOR PERMISSION OF SAID COMMISSION TO ESTABLISH, CONSTRUCT AND MAINTAIN AN OVERHEAD CROSSING AT A POINT ALONG THE SOUTHERN PACIFIC RIGHT OF WAY 1216 FEET NORTHWESTERLY FROM PASO ROBLES STREET IN THE TOWN OF OCEANO, SAN LUIS OBISPO COUNTY, AND FOR PERMISSION TO ABANDON AND ABOLISH THE GRADE CROSSING ACROSS THE RIGHT OF WAY OF THE SOUTHERN PACIFIC COMPANY AND ITS YARDS AT SAID PASO ROBLES STREET.

Application No. 14178.

Decided November 30, 1927.

CROSSINGS—GRADE SEPARATIONS.—County of San Luis Obispo authorized to construct an overhead crossing across the Southern Pacific right of way near Paso Robles street in the town of Oceano, San Luis Obispo County.

CROSSINGS—DIVISION OF COSTS—GRADE SEPARATIONS—MAINTENANCE OF.—Maintenance of an overhead crossing, excluding drainage along the railroad right of way, was ordered borne by the applicant county.

CROSSINGS—DIVISION OF COSTS—GRADE SEPARATIONS.—Authorization granted to county to construct an overhead crossing on condition that no portion of the cost assessed to the county for the construction or maintenance thereof be assessed by the county, in any manner whatsoever, to the operative property of the carrier involved.

BY THE COMMISSION.

ORDER.

The board of supervisors of the county of San Luis Obispo, State of California, filed the above entitled application with this Commission on the twenty-sixth day of October, 1927, asking for authority to construct a public road from Front street to Grand Pacific Boulevard over the tracks of Southern Pacific Company at a point about 1216 feet northwesterly from Paso Robles street in the town of Oceano, as hereinafter set forth, and to abandon the existing crossing at grade across said tracks at Paso Robles street in said town. Said Southern Pacific Company has signified by letter that it has no objection to the construction of said overhead crossing and it appears to this Commission that the present proceeding is not one in which a public hearing is necessary; that it is in the interest of public convenience and necessity that the separation of grades be constructed and the grade crossing be abandoned, and that this application should be granted, subject to the conditions hereinafter specified; therefore

It is hereby ordered, that permission and authority be and it is hereby granted to the board of supervisors of the county of San Luis Obispo, State of California, to construct a public road over the tracks of Southern Pacific Company at a point about 1216 feet northwesterly from Paso Robles street in the town of Oceano, at the location herein-

after particularly described and as shown by the map attached to the application.

Description of Crossing.

A strip of land 50 feet wide, being 25 feet on each side of the following described center line:

Beginning at a point on the northeasterly right of way line of the Southern Pacific Company, said point being 107.2 feet northwesterly along said right of way line from the most southerly corner of lot 1, as shown on that certain map entitled "Rio Vista Dell," filed in the office of the county recorder of said county on August 31, 1927, in map book 3, page 98; thence on a curve to the left from a tangent which bears S. 81° 28½' W., a distance of 36.5 feet; thence S. 74° 30½' W., 54.2 feet; thence on a curve to the right from said last mentioned course, said curve having a radius of 300 feet, a distance of 23.93 feet to its intersection with the southwesterly right of way line of the Southern Pacific Railroad, said point being 855.06 feet southeasterly measured along said right of way from a brass-capped monument at the southeasterly corner of Vista Del Encanto, as shown on a map thereof filed in the office of the county recorder of San Luis Obispo County, California, on June 16, 1927, in map book 3, page 95; the intersection of the center line of the right of way of the said Southern Pacific Railroad with the center line of the hereinbefore described parcel is at engineer's station 9945+57 of the Southern Pacific Railroad Company's survey.

The above overhead crossing shall be identified as crossing No. E-265.7-A.

Said separation of grades shall be constructed subject to the following conditions and not otherwise:

(1) The entire expense of constructing the overhead crossing, excluding approach fills, shall be borne 50 per cent by applicant and 50 per cent by Southern Pacific Company, providing the cost to Southern Pacific Company shall not exceed \$9,680. The maintenance of the overhead crossing, excluding drainage along railroad right of way, shall be borne by applicant. The cost of maintaining said drainage shall be borne by Southern Pacific Company. No portion of the cost herein assessed to applicant for the construction or maintenance of said overhead crossing shall be assessed by applicant, in any manner whatsoever, to the operative property of Southern Pacific Company.

(2) Said grade separation shall be constructed with clearances conforming to provisions of this Commission's General Order No. 26-C.

(3) Said overhead crossing shall be constructed in accordance with the detail plans filed with the application.

(4) The existing crossing at grade at Paso Robles street shall be legally abandoned and closed to public use and travel upon the completion of said overhead crossing.

(5) Applicant shall, within thirty days thereafter, notify this Commission, in writing, of the completion of the installation of said overhead crossing and closing of said grade crossing.

(6) If said overhead crossing shall not have been installed within one year from the date of this order, the authorization herein granted

shall then lapse and become void, unless further time is granted by subsequent order.

(7) The Commission reserves the right to make such further orders relative to the construction, operation and maintenance of said overhead crossing as to it may seem right and proper if, in its judgment, public convenience and necessity demand such action.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this thirtieth day of November, 1927.

DECISION No. 19065.

P. F. LANDE, MRS. E. BAUMAN, R. H. MORGAN, ROBERT C. CASH
vs.
THE NAPA RANCH, W. G. GROVE, SUPERINTENDENT, W. J. HOTCHKISS, OWNER.

Case No. 2195.

Decided December 1, 1927.

PUBLIC UTILITIES—WHAT CONSTITUTES—SERVICE.—W. J. Hotchkiss, serving water in the vicinity of Yountville, Napa County, held to be a public utility, ordered to file rates, rules and regulations and to submit plans for the improvement of service.

PUBLIC UTILITIES—WHAT CONSTITUTES—SELLING FOR PUBLIC USE.—Where the prior owner of a ranch obtained a franchise, installed a water system supplied from the waters of said ranch, and water had been supplied to consumers for some 27 years, new consumers being taken on only to the extent that old consumers discontinued service, and monthly charges are made for water, the present owner of such system is rendering a public utility service regardless of the fact that rates, rules and regulations have never been filed with the Commission, and of the contention that the water supplied was surplus water, and that no obligation existed to improve the quality of the service.

SERVICE—DUTY OF UTILITY TO RENDER—IN GENERAL.—“The Commission requires each and every public utility water system to furnish an adequate and reasonable supply of water to its patrons at all proper times, and, when existing facilities are inadequate, the utility is expected and required to expend all reasonable effort to improve conditions and obtain additional water.”

SERVICE—DUTY OF UTILITY TO RENDER—IN GENERAL.—“* * * the fact that existing revenues may be insufficient to provide for a fair net return upon the investment in the utility properties does not discharge the duty of a public utility to render reasonable and adequate service where the facilities provided by the Public Utilities Act to obtain rates sufficient to net a fair return have not been availed of by such utility.”

Wallace Rutherford, for Complainants.
C. G. Dall, for Defendants.

BY THE COMMISSION.

OPINION.

This is a complaint filed by certain consumers against W. J. Hotchkiss, who for a number of years has supplied water to a part of the

residents of the town of Yountville, in Napa County. The complaint alleges in effect that for several years the defendants have failed to provide a proper and sufficient supply of water; that every summer there has been practically no water available for domestic use for hours at a time, and that defendants have recently arbitrarily increased the rate for service rendered from \$1.25 to \$1.80 per month. Wherefore, the Commission is requested to issue its order requiring defendants to provide an adequate and proper water supply.

By way of answer W. J. Hotchkiss, one of the above named defendants, enters a general denial of the allegations set out in the complaint, and in addition thereto alleges that he is the owner of certain property in Napa County known as the Napa Ranch; that certain portions of the surplus natural waters developed on the said Napa Ranch have been for several years, and now are, being conducted through pipe lines and delivered to certain purchasers in the unincorporated town of Yountville; that he acquired this water system through the purchase of the ranch properties, and although having continued the supply of surplus waters to certain users thereof in accordance with the acts of his predecessors in interest, he has never represented the supply of water to be dependable or suitable as to quality and quantity for domestic consumption; and that neither he nor his predecessors in interest have ever undertaken the obligation of providing a public water supply other than to sell to those who may desire to purchase the limited quantity of surplus waters available on said Napa Ranch over and in excess of the requirements of said ranch. Defendant further alleges that the revenues received from the sale of water have always been entirely inadequate to justify even such service as has been rendered; that he has never held himself out to serve water as a public utility and is therefore under no obligation or liability to increase the quantity or improve the quality of the water served. Wherefore, defendant asks that the above complaint be dismissed.

Public hearings were held in this matter before Examiner Satterwhite at Yountville after all interested parties had been notified and given an opportunity to appear and be heard. The case was submitted at the adjourned hearing held April 29, 1926, but for the purpose of receiving additional and newly discovered evidence the Commission, by its order issued May 19, 1926, set aside said submission and reopened the proceeding for further hearing. This hearing was held on September 1, 1926, at which time the case was finally submitted.

From the evidence it appears that the water supply furnished to the complainants herein is obtained from small springs having their source in a canyon located approximately two miles west of the town of Yountville, on the Napa Ranch properties. Water is stored in a small

reservoir and in tanks, from which it is transmitted through a 4-inch pipe line running directly to a large winery on the ranch. From this pipe line a branch takes off which is used for the purpose of serving approximately 30 consumers in and about Yountville. Water is also supplied to the station buildings and water tank of the Southern Pacific Company, as well as a small quantity to a few ranches in the immediate vicinity of Yountville. Only about one-third of the residents of Yountville receive their domestic water supply from defendant's system, the remainder obtaining water by means of privately owned wells and pumping plants.

The Napa Ranch, consisting of about 1130 acres, was acquired about the year 1879 by one Grozenger, who constructed a winery upon the premises. In order to provide a water supply for the winery and certain parts of the ranch property, Grozenger developed water from certain springs located upon the ranch and constructed a 4-inch pipe line to the winery. Some years later the Napa Ranch and winery were purchased by J. K. Pryor, who, on June 15, 1898, obtained a permit or franchise from the Board of Supervisors of Napa County for the laying of water mains and pipe lines along and across the public highways in and in the vicinity of the town of Yountville for the purpose of furnishing the citizens of that town with water. Immediately thereafter said Pryor constructed and installed a distribution system in Yountville which was connected with and received its water supply from the pipe line located upon the Napa Ranch. Water was furnished by Pryor to many consumers in Yountville, including the Southern Pacific Railroad Company for its station building and section house; and for engine supply. Water was also sold to the county of Napa for road sprinkling purposes. So far as the evidence discloses, water was also supplied for certain operations upon the Napa Ranch at this time, the amounts not being definitely shown by the evidence other than the fact that the quantity used by the ranch varied from time to time. In 1912 the present owner, W. J. Hotchkiss, defendant herein, acquired from J. K. Pryor the Napa Ranch and winery, and according to the evidence the new owner continued to supply water to consumers in Yountville through the Napa Ranch water system in the same manner as the former owner. New consumers were taken on from time to time only to the extent that old consumers discontinued service. Monthly charges were made for the service rendered and the collections therefor were made for Hotchkiss by W. G. Grove, manager of the Napa Ranch. The monthly charge for water was increased in June, 1924, from \$1.25 to \$1.87 upon instructions issued by Mr. Hotchkiss. No application was made to the Railroad Commission for authority to increase the

rates, nor was such authority ever granted to Mr. Hotchkiss by this Commission.

No separate accounts have been kept of the operations of the water system, which have usually been carried along in common with the other business affairs of the Napa Ranch. However, the revenues during the past few years have averaged \$65 per month for domestic service and \$25 per month for water furnished to the Southern Pacific Company, making a total annual revenue of approximately \$1,080, subject to deduction for amounts refunded to the consumers at times during the summer months when service was inadequate.

The testimony shows that since its inception water has been used by the Napa Ranch for various activities conducted thereon. It also appears that the supply available upon the Napa Ranch has always been entirely inadequate for the demands of the consumers, and as far as the record discloses, very little effort has been made by the owners of the Napa Ranch to take care of and maintain a sanitary condition at the springs and storage facilities. At present and for several years last past, the water requirements of the Napa Ranch have not been extensive. The winery is not in operation and has not been for many years. The ranch at present has about 200 acres under cultivation in bearing prune trees not receiving irrigation water from any source, and in addition uses water for about 15 head of stock and the ordinary requirements of the ranch house. According to the testimony, the average use of water by the Napa Ranch has been approximately one-third of the normal available supply.

There is no other water system, public utility or otherwise, operating in this general neighborhood. The water used by those people not connected to this system is obtained mainly from private wells. The testimony indicates that most of the wells in this district are shallow and produce but very little water and that, by reason of the past several dry years, it is becoming increasingly more difficult to obtain sufficient water from underground sources.

It is the contention of the consumers that water has been supplied to them through the water system of the Napa Ranch continuously for over 30 years; that the present owner of the system, defendant herein, has continued this service since 1912; that the water supply has thereby been dedicated to the public use, at least as to those waters heretofore served to the consumers; that the operations of defendant are public utility in character, and that therefore it is the duty of defendant to continue the supply of water to the consumers as in the past and to take whatever measures may be necessary to acquire an additional supply of water.

Defendant contends that the supply of water to consumers in Yountville has been furnished only from such surplus waters as were not required for use upon the Napa Ranch; that the water developed upon said ranch was originally intended for use upon the ranch and in the winery only; that for purposes of accommodation surplus waters over and above the actual requirements of the ranch and winery were delivered to certain residents in and about Napa; that the present defendant since ownership of the ranch and water system has never filed his rates, rules and regulations with the Railroad Commission and has always maintained that the service rendered to the consumers on this water system in no case amounted to a dedication of such water to the public use; that additional water can only be developed at a very great expense, and that the revenues to be derived from those consumers who can be served by the existing system are now and will be insufficient to pay for the cost of operation and depreciation alone, without making provision for a proper return upon the cost of the investment. Defendant alleges that for these reasons he is not operating as a public utility and therefore is under no obligation either to improve the present service or to continue it against his will.

We are of the opinion that the record in this case clearly indicates that the waters of the Napa Ranch heretofore used in supplying the consumers in and in the vicinity of Yountville have been dedicated to the public use at least to that extent evidenced by present service and that the defendant is operating a public utility water system. Documentary and other evidence shows that in 1898 J. K. Pryor, then owner of the Napa Ranch, obtained a franchise from the county of Napa to install a system of mains and pipe lines to furnish and deliver water to consumers in and about the town of Yountville, and acting under the rights and authority granted in this franchise, the said Pryor thereafter, during the same year and/or the following year, installed a water system supplied by and from the waters of the Napa Ranch, and immediately thereafter commenced the delivery of water to consumers. The evidence further shows that ever since this time water from the Napa Ranch has been supplied continuously by this system to customers in and near Yountville, a period of at least 27 years.

While the testimony indicates that a greatly increased water supply can not be developed at the present sources except at unwarranted expense, it is also apparent that defendant has made little or no effort to improve and increase the existing facilities to their full extent. The Commission requires each and every public utility water system to furnish an adequate and reasonable supply of water to its patrons at all proper times, and, when existing facilities and supply are inadequate, the utility is expected and required to expend all reasonable efforts

to improve conditions and obtain additional water. It should also be pointed out that the fact that existing revenues may be insufficient to provide for a fair net return upon the investment in the utility properties does not discharge the duty of a public utility to render reasonable and adequate service where the facilities provided by the Public Utilities Act to obtain rates sufficient to net a fair return have not been availed of by such utility.

Based upon the foregoing facts, we are of the opinion that defendant is operating as a public utility and is subject to the control and jurisdiction of this Commission, and, as such, said defendant should take at once whatever measures are reasonably necessary to remedy and improve the inadequate water service existing upon his system.

ORDER.

P. F. Lande, Mrs. E. Bauman, R. H. Morgan and Robert C. Cash having filed formal complaint with the Railroad Commission as entitled above, public hearings having been held thereon, the matter having been submitted and the Commission being now fully informed in the matter, and the Commission being of the opinion that W. J. Hotchkiss is serving water to certain consumers in and in the vicinity of Yountville in Napa County, California, as a public utility, and, as such, said service is under the jurisdiction and control of the Railroad Commission;

It is hereby ordered, that W. J. Hotchkiss be and he is hereby directed to file with this Commission within thirty days from the date of this order:

1. The schedule of rates heretofore in effect on this system prior to the unauthorized rate increase made on or about the month of June, 1924.

2. Revised rules and regulations governing the service to and relations with his consumers, said rules and regulations to become effective upon acceptance for filing by this Commission.

3. Detailed plans for the improvement of storage and distribution facilities, and for the improvement and increasing of the water supply, such improvements to be completed on or before April 30, 1928.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this first day of December, 1927.

DECISION No. 19067.

IN THE MATTER OF THE APPLICATION OF ASBURY TRUCK COMPANY, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE FREIGHT SERVICE BETWEEN ALL POINTS IN THE STATE OF CALIFORNIA.

Application No. 10148.

Decided December 1, 1927.

CERTIFICATES—AUTO TRUCK SERVICE.—Asbury Truck Company authorized to operate an automotive truck service, on demand, for the transportation of oil well supplies, heavy machinery, pipe, steel and tanks over eleven specified routes.

AUTOMOTIVE TRANSPORTATION—WHAT CONSTITUTES—DEMAND SERVICE.—A certificate to haul specific commodities by auto truck on demand over specified routes was granted where such operations had been conducted for some years, was increasing in volume, and by reason of the great number of trips being made over regular routes and between fixed termini, came clearly within the statutory provisions requiring a certificate for its continuance, applicant having sought to place its operations under the Commission's regulatory authority at a time when it was doubtful if a certificate was required for such operation.

Warren E. Libby and Louis Kleindienst, for Applicant.

H. J. Bischoff, for Bakersfield and Los Angeles Fast Freight, California Highway Express, Coast Truck Line, Boulevard Express, City Transfer and Storage, Glendale and Los Angeles Express, Monrovia and Los Angeles Express, Huntington Park and Los Angeles Transfer, Imperial Valley and Los Angeles Express, Keystone Express, Los Angeles and Oxnard Express, Los Angeles and San Pedro Transportation Co., Ojai, Ventura and Los Angeles Express, Pacific Motor Express, Rex Transfer, Rice Transportation Company, Richards Trucking and Warehouse Company, San Bernardino Transportation Company, San Fernando Haulage Company, San Joaquin Valley Transportation Company, Motor Service Express, S & M Transfer, Tolson Transportation Company, Triangle-Orange County Express, W & S Truck Company, Pioneer Truck and Transfer Company and Borderland Express, Protestants.

Kidd, Shell and Delamer, by *W. O. Shell*, for Motor Transit Company.

Frank Karr and R. E. Wedekind, for Southern Pacific Company, Pacific Electric Ry. Co., Central California Traction Company, Visalia Electric Railroad Company and Petaluma and Santa Rosa Railroad Company.

By THE COMMISSION.

OPINION.

Applicant above named was granted a certificate of public convenience and necessity to operate automotive trucks for the transportation of property for compensation over the public highways in this state by this Commission, by Decision and Order No. 18150, dated March 31, 1927. On April 18, 1927, a petition for rehearing was filed by certain parties urging that the Commission had erred in granting such certificate because the operations as proposed by applicant did not fall within its jurisdiction. By Decision and Order No. 18496, dated June 9, 1927, this petition for rehearing was denied. On the same date a first supplemental order was made by the Commission (Decision and Order No. 18487), which modified the previous Decision No. 18150 with respect to the routes named in the certificate. Subse-

quently, these parties, who had petitioned for a rehearing, filed a petition for writ of review in the California Supreme Court, requesting that the Commission's order be annulled as to the provisions therein relating to, and the granting of a certificate to this applicant. Thereafter, this Commission reopened this matter for further hearing to determine whether or not error had been committed in granting the certificate. This further hearing was held before Examiner Vaughan at Los Angeles, the matter was duly submitted, and is now ready for decision.

On August 16, 1927, this Commission made an order rescinding and setting aside its previous decisions numbered 18150 and 18487 pending the final determination of this matter.

The certificate as modified by Decision No. 18487 authorized applicant to operate on the following described routes:

1. Between Salinas and Los Angeles and Los Angeles harbor points via the coast highway.
2. Between Fresno and Los Angeles and Los Angeles harbor points via Bakersfield and the Ridge and/or Tehachapi routes.
3. Between Los Angeles and Los Angeles harbor points and San Bernardino via the Foothill and Valley boulevards.
4. Between Owenyo and Los Angeles and Los Angeles harbor points via Mojave.
5. Between Los Angeles and Los Angeles harbor points and San Diego via the coast or inland routes.
6. Between Los Angeles, Los Angeles harbor points and Imperial Valley points via coast or inland routes to San Diego and via state highway to Imperial Valley.
7. Between Los Angeles, Los Angeles harbor points and Santa Monica Bay points.
8. Between San Bernardino and Needles via National Old Trails road.
9. Between San Bernardino and Imperial Valley points and California-Arizona state line via ocean-to-ocean highway.
10. Between Bakersfield and McKittrick, Fellows, Taft and Maricopa.
11. Between Fresno and Coalinga and Alcala.

At the further hearing applicant introduced certain exhibits and testimony for the purpose of showing that it has been operating usually and ordinarily over these routes, and shows the following:

As to Route No. 1, between Salinas and Los Angeles and Los Angeles harbor points via the coast highway, the number of operations from May to December, inclusive, 1925, were 2832; during the year 1926, 4517, and from January to July, inclusive, 1927, 5269.

As to Route No. 2, between Fresno and Los Angeles and Los Angeles harbor points via Bakersfield and the Ridge and/or Tehachapi routes, there were 521 operations from May to December, inclusive, 1925; 609 during the year 1926 and 304 from January to July, inclusive, 1927.

As to Route No. 3, between Los Angeles and Los Angeles harbor points and San Bernardino via the Foothill and Valley boulevards, there were 119 operations from May to December, inclusive, 1925, 129 during the year 1926, and 521 from January to July, inclusive, 1927.

As to Route No. 4, between Owenyo and Los Angeles and Los Angeles harbor points via Mojave, there were no operations from May to December, inclusive, 1925; there were 4 during the year 1926, and 4 from January to July, inclusive, 1927.

As to Route No. 5, between Los Angeles and Los Angeles harbor points and San Diego via the coast or inland routes, there were 626 operations from May to December, inclusive, 1925, 1899 during the year 1926, and 1758 from January to July, inclusive, 1927.

As to Route No. 6, between Los Angeles, Los Angeles harbor points and Imperial Valley points via coast or inland routes to San Diego and via state highway to Imperial Valley, there were three operations from May to July, inclusive, 1925, 55 during the year 1926, and one from January to July, inclusive, 1927.

As to Route No. 7, between Los Angeles, Los Angeles harbor points and Santa Monica Bay points, there were 793 operations from May to December, inclusive, 1925, 866 during the year 1926, and 869 from May to July, inclusive, 1927.

As to Route No. 8, between San Bernardino and Needles via National Old Trails road, there was 1 operation from May to December, inclusive, 1925, 50 during the year 1926, and 4 from January to July, inclusive, 1927.

As to Route No. 9, between San Bernardino and Imperial Valley points and California-Arizona state line via ocean-to-ocean highway, there was 1 operation from May to December, inclusive, 1925, 31 during the year 1926, and 121 from January to July, inclusive, 1927.

As to Route No. 10, between Bakersfield and McKittrick, Fellows, Taft and Maricopa, there were 334 operations from May to December, inclusive, 1925, 281 during the year 1926, and 110 from January to July, inclusive, 1927.

As to Route No. 11, between Fresno and Coalinga and Alcalde, there were no operations from May to December, inclusive, 1925; 25 during the year 1926, and 6 from January to July, inclusive, 1927.

From the foregoing, it is our opinion that applicant has been operating usually and ordinarily upon, over and along these routes, and we do not feel, therefore, that we committed an error in our previous order in granting a certificate for operations covering the same.

We have reviewed the evidence heretofore presented in the prior hearings and conclude therefrom that the record shows public convenience and necessity to require the service, over the routes as hereinafter specifically mentioned in the accompanying order, and for the class of commodities set forth in said order. This showing is confirmed by the evidence as to regularity and volume of operation over regular routes and between fixed termini as presented at the further hearing on this proceeding.

Applicant sought to place its operations under the regulatory authority of this Commission at a time when it was doubtful if a certificate of public convenience and necessity was required to permit the operation to be conducted in accordance with the statutory law. The operation has been conducted for some years, is increasing in volume and by reason of the great number of trips now being made over regular routes and between fixed termini, comes clearly within the provisions of the statute as requiring a certificate authorizing its continuance. Protestants made no showing as to their ability satisfactorily to handle the character of transportation herein proposed by applicant.

It is our conclusion that a certificate of public convenience and necessity should be granted for the herein described routes, and an order will be entered accordingly.

ORDER.

The matter of the application as above named and numbered having been duly reopened for further hearing, public hearings having been duly held thereon, the matter having been duly submitted, the Commission being now fully advised, and basing its order on the conclusions as appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Asbury Truck Company, a corporation, of an automotive truck service, on demand, for the transportation of oil well supplies, heavy machinery, pipe, steel and tanks, on the following described routes:

1. Between Salinas and Los Angeles and Los Angeles harbor points, via the coast highway.

2. Between Fresno and Los Angeles and Los Angeles harbor points via Bakersfield and the Ridge and/or Tehachapi routes.

3. Between Los Angeles and Los Angeles harbor points and San Bernardino via the Foothill and Valley boulevards.

4. Between Owenyo and Los Angeles and Los Angeles harbor points via Mojave.

5. Between Los Angeles and Los Angeles harbor points and San Diego via the coast or inland routes.

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Between Los Angeles, Los Angeles harbor points and Imperial ey points via coast or inland routes to San Diego and via state way to Imperial Valley.

Between Los Angeles, Los Angeles harbor points and Santa ica Bay points.

Between San Bernardino and Needles via National Old Trails

Between San Bernardino and Imperial Valley points and Calia-Arizona state line via ocean-to-ocean highway.

Between Bakersfield and McKittrick, Fellows, Taft and Maricopa.

Between Fresno and Coalinga and Alcalde, and serving all inter-
iate points and termini on all the hereinabove described routes,
ther with the right to transport the above-named commodities in
k-load quantities with the minimum load of 4000 pounds between
terminus or intermediate points on any of the above-mentioned
es to any terminus or intermediate point on any other route; and
is hereby ordered, that a certificate of public convenience and
ssity be, and the same is hereby granted to Asbury Truck Company,
rporation, in accordance with the foregoing declaration and cover-
the above-described routes, subject to the following conditions:

Applicant shall file its written acceptance of the certificate herein
ted within a period of not to exceed ten days from the date hereof.

Applicant shall file, in duplicate, within a period of not to exceed
ity days from the date hereof, tariff of rates and time schedules,
tariffs of rates and time schedules to be identical with those
ched to the application herein, or rates and time schedules satis-
ory to the Railroad Commission, and shall commence operation of
service within a period of not to exceed sixty days from the date
of.

The rights and privileges herein authorized may not be discon-
ed, sold, leased, transferred nor assigned unless the written consent
ie Railroad Commission to such discontinuance, sale, lease, transfer
ssignment has first been secured.

No vehicle may be operated by applicant herein unless such vehicle
vned by said applicant or is leased by it under a contract or agree-
t on a basis satisfactory to the Railroad Commission.
he effective date of this order shall be twenty days from the date
of.

ated at San Francisco, California, this first day of December, 1927.

DECISION No. 19076.

IN THE MATTER OF THE APPLICATION OF THE COUNTY OF SAN BERNARDINO FOR PERMISSION TO CONSTRUCT A CROSSING AT THE GRADE OVER THE ATCHISON, TOPEKA AND SANTA FE RAILWAY, NEAR FONTANA, SAN BERNARDINO COUNTY, STATE OF CALIFORNIA.

Application No. 14157.

Decided December 2, 1927.

CROSSINGS—GRADE CROSSINGS.—County of San Bernardino authorized to construct Beech avenue at grade across the track of The Atchison, Topeka and Santa Fe Railway Company near Fontana, San Bernardino County.

CROSSINGS—DIVISION OF COSTS—GRADE CROSSINGS.—Authorization granted to a county to construct a grade crossing at grade on condition that no portion of the cost assessed to the county for the construction or maintenance thereof be assessed by the county, in any manner whatsoever, to the operative property of the carrier involved.

BY THE COMMISSION.

ORDER.

The board of supervisors of the county of San Bernardino, State of California, filed the above entitled application with this Commission on the seventeenth day of October, 1927, asking for authority to construct a public street known as Beech avenue at grade across the track of The Atchison, Topeka and Santa Fe Railway Company, in the vicinity of the town of Fontana, as hereinafter set forth. Said The Atchison, Topeka and Santa Fe Railway Company has signified by letter that it has no objection to the construction of said crossing at grade, and it appears to this Commission that the present proceeding is not one in which a public hearing is necessary; that it is neither reasonable nor practicable at this time to provide a grade separation or to avoid a grade crossing with said track at the point mentioned in this application, and that this application should be granted, subject to the conditions hereinafter specified; therefore,

It is hereby ordered, that permission and authority be and it is hereby granted to the board of supervisors of the county of San Bernardino, State of California, to construct Beech avenue at grade across the track of The Atchison, Topeka and Santa Fe Railway Company at the location hereinafter particularly described and as shown by the map attached to the application.

Description of Crossing.

Beginning at a point on the center line of the right of way of The Atchison, Topeka and Santa Fe Railway north 88° 21' east 1664 feet from the mile post No. 91, said mile post being shown on the right of way map as engineer's station 520 plus 12.92, said point of beginning being south 88° 21' west 30 feet from the intersection of the said center line of said Atchison Topeka and Santa Fe Railway with the center line of Beech avenue, as shown on tract 2102 recorded in map book 32, page 31 records of San Bernardino; thence north 8° 38' 30" west 50.35 feet to a point on the north right of way line of said railway; thence north 88° 21' east along the said north right of way line of said railway 60 feet; thence south 80° 38' 30" east 100.7

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to a point on the south right of way line of said railway; thence south $88^{\circ} 21'$ along the said south right of way line of said railway 60 feet; thence north $8^{\circ} 0''$ west 50.35 feet to the point of beginning.

he above crossing shall be identified as crossing No. 2-90.6.

aid crossing shall be constructed subject to the following conditions not otherwise:

The entire expense of constructing the crossing shall be borne by licant. The cost of maintenance of that portion of said crossing to lines two feet outside of the outside rails shall be borne by licant. The maintenance of that portion of the crossing between s two feet outside of the outside rails shall be borne by The Atchison, Topeka and Santa Fe Railway Company. No portion of the cost in assessed to applicant for the construction or maintenance of crossing shall be assessed by applicant, in any manner whatsoever, he operative property of The Atchison, Topeka and Santa Fe Railway Company.

The crossing shall be constructed of a width not less than twenty feet and at an angle of ninety degrees to the railroad and with les of approach not greater than three per cent; shall be constructed tantly in accordance with Standard No. 2 as specified in General er No. 72 of this Commission; shall be protected by a suitable sing sign and shall in every way be made safe for the passage eon of vehicles and other road traffic.

The existing public crossing of Beech avenue, located approxi- ely 456 feet east of the proposed crossing, shall be legally abandoned effectively closed to the public use and travel immediately after the sing authorized herein is open to public use.

Applicant shall cause to have removed the eucalyptus trees located ach side of the railroad right of way for a distance of not less than feet each side from the center line of said Beech avenue. In the t the trees are not removed an automatic flagman shall be installed the protection of this grade crossing at the sole expense of the licant. Said automatic flagman shall be of a type and installed in rdance with Standard No. 3 in General Order No. 75 of this mission. If said automatic flagman be installed, its maintenance eafter shall be borne by The Atchison, Topeka and Santa Fe Rail- Company.

Applicant shall, within thirty days thereafter, notify this Com- sion, in writing, of the completion of the installation of said sing.

If said crossing shall not have been installed within one year n the date of this order, the authorization herein granted shall then se and become void, unless further time is granted by subsequent er.

7. The Commission reserves the right to make such further orders relative to the location, construction, operation, maintenance and protection of said crossing as to it may seem right and proper, and to revoke its permission if, in its judgment, the public convenience and necessity demand such action.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19085.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES-NEWPORT FREIGHT LINE, G. I. REIS, OWNER, BY LEWIS A. MONROE, AGENT, FOR AN ORDER GRANTING PERMISSION TO ESTABLISH NEW TARIFF RESULTING IN BOTH INCREASES AND REDUCTIONS IN RATES BETWEEN LOS ANGELES, HUNTINGTON BEACH, LAGUNA BEACH AND INTERMEDIATE POINTS.

Application No. 13782.

Decided December 2, 1927.

RATES—AUTOMOTIVE TRANSPORTATION—Los Angeles-Newport Freight Line authorized to establish a new tariff for automotive truck service between Los Angeles, Huntington Beach, Laguna Beach and intermediate points, and to institute store-door pickup and delivery service at Los Angeles, Huntington Beach and intermediate points.

J. W. Cawley and Lewis A. Monroe, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application filed by Lewis A. Monroe, as agent for G. I. Reis, owner of an automobile truck line operated under the fictitious name of Los Angeles-Newport Freight Line, with its principal office at Los Angeles, seeking permission under the provisions of chapter 213, Statutes of 1917, to readjust certain class rates and minimum charge for the transportation of freight as set out in Exhibit "A" attached to and made a part of the application. The proposed changes will result in increases and reductions.

It is stated in the petition that the present rates are unjust and unreasonably low and the adjustment sought is necessary for the reason that the revenue derived from freight transported at the present rates is insufficient to pay the total operating expenses.

A public hearing was held before Examiner Geary at Los Angeles, October 19, 1927, and the application having been duly submitted is now ready for our opinion and order.

In Decision No. 15107, dated June 25, 1925, the applicant was authorized to purchase from P. E. Tibbetts equipment and operative rights of

an automotive truck service between Los Angeles and Newport Beach, Balboa Beach and intermediate points. In Decision No. 15808, dated December 29, 1925, the applicant was granted permission to extend the operative rights from Balboa Beach to include Laguna Beach.

It is proposed in this proceeding to institute store-door pickup and delivery service at Los Angeles, Huntington Beach and intermediate points, a service not heretofore rendered, and also to increase the depot-to-depot rates. The present and proposed rates are as shown below:

Between Los Angeles	and Los Alamitos Talbert Wintersburg Westminster Huntington Beach		Rates in cents per 100 lbs.			
			First class	Second class	Third class	Fourth class
		Present -----	30	25	22	20
		Proposed -----	*40	*35	*30	*25
			†45	†40	†35	†30
			‡30	‡25	‡22	‡20

* From Los Angeles depot only.

† Includes pickup and/or delivery at Los Angeles.

‡ Applies only on two tons or over.

Increases ranging from 2 cents to 8 cents per 100 pounds and also proposed in the rates applying on freight in less than two-ton lots between Los Angeles and Corona, Costa Mesa, Balboa Beach, Newport Beach and Laguna Beach. On freight weighing over two tons it is proposed to reduce the rates from 3 to 13 cents per 100 pounds, according to class and destination.

The present minimum charge of 50 cents will remain in effect, but will be restricted to apply on shipments weighing 100 pounds or less. On shipments weighing over 100 pounds and less than 150 pounds the minimum charge will be one-half cent per pound. On shipments weighing over 150 pounds the minimum charge will be 75 cents.

Reference to applicant's annual report for the year 1926 indicates that during the period there was but a few cents difference between operating revenue and operating expenses. Prior to the date of hearing applicant's books were audited by an accountant of the Commission's finance department and loss for the year 1926 is reported as \$80.87. A statement of operating revenue and expenses for the period from January 1 to September 30, 1927, inclusive, was also prepared by the Commission's accountant and indicates that the total revenue received was \$12,352.09 and operating expense \$12,029.83, net income \$322.26.

A witness for applicant testified that the traffic was heaviest during the summer months and extremely light during the last three months of each year. This evidence is borne out by the statement of revenues and expenses for the year 1926, which shows that the total operating expenses for the last three months exceeded operating revenue by \$559.74, which indicates that for the twelve months of 1927 there will be an operating loss of approximately \$250.

Since January 1, 1927, applicant's accounts have been set up so as to provide for the additional expense of 5 per cent tax on gross revenue, amounting to approximately \$780 for the year.

By an exhibit it was shown that the proposed rates compare favorably, distance considered, with automobile truck rates between Los Angeles and Redondo Beach, Wineville, Piru and Moorpark.

Notice of the hearing was mailed to the Associated Jobbers of Los Angeles and chambers of commerce at the points served by applicant, but no one appeared to protest the rate changes.

After giving consideration to all the exhibits and testimony and reviewing the report for the year 1926, and for the year 1927 up to and including September 30th, we are of the opinion and find that the applicant should be authorized to establish the rates and charges as set forth in Exhibit "A" attached to the petition and that the application should be granted.

ORDER.

This application having been duly submitted, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion which precedes this order, which said opinion is made a part hereof;

It is hereby ordered, that applicant, G. I. Reis, operating under the fictitious name of Los Angeles-Newport Freight Line, be and he is hereby authorized to publish on not less than ten days' notice to the Commission and to the public, in tariffs constructed in accordance with the rules of the Commission, the rates as proposed and set forth in Exhibit "A" attached to and made a part of the application.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19087.

IN THE MATTER OF THE APPLICATION OF BAY POINT LIGHT AND POWER COMPANY FOR AUTHORITY TO ISSUE FIVE HUNDRED SHARES OF ITS CAPITAL STOCK OF THE PAR VALUE OF ONE HUNDRED DOLLARS PER SHARE.

Application No. 14137.

Decided December 2, 1927.

SECURITY ISSUE—STOCK.—Bay Point Light and Power Company authorized to issue and sell, on or before October 1, 1928, at not less than par, \$25,000 of its common capital stock and to use \$20,000 of the proceeds to pay cost of improvements and to use \$5,000 to reimburse treasury. Application to issue \$25,000 of stock to reimburse treasury and depreciation reserve denied.

SECURITY ISSUES—PURPOSE—REIMBURSEMENT OF TREASURY.—If public utilities desire to reimburse their treasuries, it is incumbent upon such utilities to show that the reimbursement of their treasuries is reasonably required and to submit

evidence which will enable the Commission to make a finding such as it is obliged to make under the provisions of the Public Utilities Act.

born, Roehl and Delancey C. Smith, by A. B. Roehl, for Applicants.

THE COMMISSION.

OPINION.

Bay Point Light and Power Company asks permission to issue and place at not less than \$80 per share 500 shares (\$50,000 par value) of common capital stock and use the proceeds for the purpose of reimbursing its treasury, reimbursing its reserve for accrued depreciation and financing the cost of additions and betterments.

Bay Point Light and Power Company, according to the record, has authorized stock issue of \$250,000, divided into 2500 shares of the par value of \$100 each. As of July 31, 1927, the company reports 1,000 of its stock outstanding. Its assets and liabilities of the same date are reported as follows:

Assets.

Authorized capital.....	\$60,598 52
Accounts receivable.....	3,245 20
Inventory.....	5,161 33
Discount on securities.....	9,550 00
Total assets.....	\$78,555 05

Liabilities.

Authorized capital.....	\$50,000 00
Consumers' deposits.....	600 00
Depreciation reserve.....	11,363 72
Appropriation from surplus for capital account.....	14,285 35
Profit and loss.....	2,305 98
Total liabilities.....	\$78,555 05

The company asks permission to use the proceeds obtained from the sale of its stock for the following purposes:

Reimburse its treasury for capital account expenditures.....	\$14,285 35
Reimburse depreciation reserve.....	5,106 81
Pay for proposed improvements.....	20,000 00
Total	\$39,392 16

The testimony shows that the company has found it necessary to locate its substation and to provide for larger substation facilities and higher line voltage. For these purposes it estimates an expenditure of \$40,000, segregated as follows:

Land	\$1,500 00
Building	1,500 00
Switchboard, meters, switches, etc.....	2,000 00
Transformer house	500 00
Clearing, yard, fences and miscellaneous.....	500 00
Total substation expense.....	\$6,000 00

Wire	\$3,000 00
Poles and headway.....	4,500 00
Transformers and stations.....	4,000 00
Meters, etc.....	1,500 00
Miscellaneous	1,000 00
<hr/>	
Total distribution.....	\$4,000 00
<hr/>	
Grand total.....	\$20,000 00

Testimony of W. S. Van Winkle, president of applicant corporation, shows that the company has recently undertaken to furnish service to the California Water Service Company at Clyde and to the Associated Oil Company at Clyde. The taking on of this additional service and other service which it is expected will be connected with applicant's system in the near future is largely responsible for the estimated expenditure of \$20,000.

Applicant's evidence in regard to the reimbursing of its treasury and its depreciation reserve is not conclusive. It reports that it has expended \$5,106.81 of cash offset by its depreciation reserve for construction purposes and that because of such expenditure it should be permitted to reimburse its reserve. No evidence was submitted showing that the company at this time has any need for the cash which would be obtained through the issue of the stock, were its reserve reimbursed to the amount indicated. In regard to the reimbursement of the treasury of the company, on account of surplus earnings, reported at \$14,285.35, expended for capital purposes, applicant's president testified that it was contemplated that the company would pay a dividend of approximately \$4,000 to its stockholders. It is planned to sell the company's stock at \$80 and use part of the proceeds to pay the cash dividend. No further evidence was submitted showing that it is reasonably required that the treasury of the company be reimbursed in the amount of \$14,285.35. This Commission has repeatedly gone on record that if public utilities desire permission to reimburse their treasury it is incumbent upon such utility to show that the reimbursement of its treasury is reasonably required and to submit evidence which will enable the Commission to make a finding such as it is obliged to make under the provisions of the Public Utilities Act. We do not believe that the record in this case warrants the Commission to make a finding to the effect that the money, property or labor to be procured or paid for by the issue of the \$50,000 of stock is reasonably required by applicant. The order herein will authorize the issue of \$25,000 of stock, which, we believe, should be sold by the company at not less than par.

ORDER.

Bay Point Light and Power Company having asked permission to issue 500 shares (\$50,000 par value) of its common capital stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by the issue of \$25,000 of such stock was reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that this application, in so far as it involves the issue of \$25,000 of stock, should be denied without prejudice; therefore,

It is hereby ordered, as follows:

1. Bay Point Light and Power Company may issue and sell at not less than par, on or before October 1, 1928, \$25,000 of its common capital stock and use \$20,000 of the proceeds to pay the cost of the improvements described in Exhibit "E" filed in this proceeding and to use \$5,000 of said stock to reimburse its treasury.

2. That this application, in so far as it involves the issue of \$25,000 of stock, be and the same is hereby dismissed without prejudice.

3. The authority herein granted will become effective upon the date hereof.

4. Bay Point Light and Power Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19088.

IN THE MATTER OF THE APPLICATION OF (1) BACON SERVICE CORPORATION, A CORPORATION, FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE (2) AUTOMOTIVE FREIGHT SERVICE AS A COMMON CARRIER BETWEEN SANGER, CALIFORNIA, AND GENERAL GRANT NATIONAL PARK.

Application No. 14138.

Decided December 2, 1927.

CERTIFICATES—AUTOMOTIVE TRANSPORTATION.—Bacon Service Corporation authorized to operate automotive freight service between Sanger and General Grant National Park and intermediate points of Squaw Valley.

AUTOMOTIVE TRANSPORTATION—TRANSFER OF OPERATIVE RIGHTS—IN GENERAL.—As an automotive operative right is indivisible, after the granting of an application to transfer such a right the parties can not, by tariff filings, carry out the

terms of an agreement not set forth in the application whereby the vendor company will continue transporting freight, and the vendee company will confine its operations to the transportation of passengers and express.

By THE COMMISSION.

OPINION AND ORDER.

In this proceeding Bacon Service Corporation asks for a certificate of public convenience and necessity to operate an automotive service for the transportation of freight between Sanger and General Grant National Park, and Sequoia and General Grant National Parks Company, a corporation, asks for authority to discontinue operation of an automotive freight transportation service between Sanger and Hume.

Bacon Service Corporation proposes to charge rates, to give service and use equipment as set forth in exhibits "A," "B" and "C," all of which exhibits are attached to the application herein and made a part thereof.

This proceeding was instituted to clarify a situation created by the recent purchase by the Sequoia Company of the operating rights of Bacon Service Corporation, which, under authority of the Railroad Commission, was operating an automotive passenger and freight service between Fresno and Hume, the right to operate from Fresno to Sanger being limited to passenger service, with no right to operate locally between Fresno and Sanger. By Decision No. 18552, dated June 27, 1927, and issued on Application No. 13868, the operating rights heretofore issued to Bacon Service Corporation by the Commission were transferred to the Sequoia Company. It was developed by offered tariff filings that both the Bacon Company and Sequoia Company, unaware that an operating right is held by the Commission to be indivisible, had entered into an agreement that the sale and transfer was made with the understanding that the Bacon Company was to continue the business of transporting freight and the Sequoia Company confine its operations to the transportation of passengers and express, an understanding which was not set forth in the application. Advised by letter that such an arrangement could not be approved by the Commission, that the Sequoia Company had acquired all of the rights of the Bacon Company, and that any operation by the Bacon Company subsequent to the date of the transfer of its operating rights to Sequoia Company would be an operation in violation of the Auto Stage and Truck Transportation Act, the instant proceeding was instituted.

We are of the opinion that this is a matter in which a public hearing is not necessary, particularly in view of the fact that a new service is not proposed to be established, and that the application should be granted.

We are further of the opinion and hereby find as a fact that the operations herein contemplated and to which the certificate hereinbelow contained refers involve the transportation by automobile, auto

truck or other automotive vehicle of property as a common carrier for compensation between the fixed termini or over the regular route hereinabove mentioned.

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Bacon Service Corporation of an automotive service for the transportation of freight between Sanger and General Grant National Park and the intermediate points of Squaw Valley, Dunlap, Miramonte and Pinehurst, over and along the following route:

Sanger to Centerville over Centerville highway; thence through river bottom to Squaw Valley; thence to Dunlap over Dunlap highway; thence to Miramonte over Dunlap highway and Sand Creek road; thence to Pinehurst over Sand Creek road; thence over Sand Creek road to General Grant National Park,

Said service to be given daily, except Sunday, between Sanger and General Grant Park in the period June 1st to September 30th of each year and between Sanger and Miramonte three times a week in the period from October 1st to May 31st; and

It is hereby ordered, that a certificate of public convenience and necessity for such a service be and the same hereby is granted to Bacon Service Corporation, subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.
2. Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariffs of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that Sequoia and General Grant National Parks Company be and it is hereby authorized to discontinue the operation of the automotive freight transportation service authorized to be performed by it under authority of Decision No. 18552 of the Railroad Commission, issued on Application No. 13868; provided, said Sequoia and General Grant Parks Company shall immediately file with the Railroad Commission supplements to its tariffs and time schedules on file in its name covering such freight transportation

service, which supplements shall cancel such tariffs and time schedules; and provided, further, that it is understood that the discontinuance of service herein authorized has the effect of limiting the service to be performed by said Sequoia and General Grant National Parks Company under existing operating rights to that of a passenger stage line for the transportation of passengers only between Fresno and Hume and intermediate points, with no local service between Fresno and Sanger.

For all other purposes the effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19089.

IN THE MATTER OF THE APPLICATION OF BAY SHORE FREIGHT LINES, OPERATING A COMBINATION WATER AND TRUCK TRANSPORTATION LINE BETWEEN SAN FRANCISCO, OAKLAND AND ALAMEDA ON THE ONE HAND, AND GILROY, SAN JOSE, LOS GATOS, SARATOGA AND INTERMEDIATE POINTS ON THE OTHER HAND, FOR AUTHORITY TO INCREASE CLASS AND COMMODITY RATES.

Application No. 14151.

Decided December 2, 1927.

RATES—AUTOMOTIVE TRANSPORTATION.—Bay Shore Freight Lines authorized to establish increased class and commodity rates on its combination water and truck transportation line between San Francisco, Oakland and Alameda to Gilroy, San Jose, Los Gatos, Saratoga and intermediate points via Port South Shore.

Rufus H. Kimball, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by William Quinby Wright, Frank Chapman Willson and Godfred Thuesen, as trustees, associates doing business under the firm name and style of Bay Shore Freight Lines, for an order granting permission to adjust rates, rules and regulations for the transportation of property via its combined boat and automobile freight lines as set forth in Exhibit "A" attached to and made a part of the application. The proposed rates, rules and regulations result in increases over the present rates.

The applicant alleges that the adjustment sought is necessary for the reason that the net revenue derived from freight transported under the present rates is inadequate and does not cover even the total cost of the operations.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

public hearing was held before Examiner Geary on November 3, 7, and the case having been submitted is now ready for our opinion order.

he rights of applicant extend from San Francisco, Oakland andameda to Gilroy, San Jose, Los Gatos, Saratoga and points intermediate thereto, via Port South Shore, and were originally granted to South Shore Port Company, a corporation, by Decisions Nos. 13189 13923, dated February 20, 1924, and May 14, 1925, respectively.

y authority of our Decision No. 18821, Application No. 13962, September 20, 1927, these applicants purchased the property and the record hat proceeding is by stipulation made part of the instant proceeding. ill not be necessary to review in detail the facts set forth in Decision 18821 except to recite that the original company was organized in 0 and that on March 11, 1927, a petition was filed in the District rt of the United States for the Northern District of California for order adjudging the South Shore Port Company a bankrupt. On y 11, 1927, the properties were sold by the referee in bankruptcy to e applicants.

he annual reports show there has been a deficit for every year since commencement of operation, and that on December 31, 1926, the imulated deficit was \$62,288.29, with an outstanding indebtedness that date of \$120,288.77.

he present and proposed commodity rates applying to principal age are shown below.

between	and	Commodity	Present rate cents	Proposed rate cents	Increase
land	Francisco Santa Clara San Jose	Nails -----	15	16	1
land	Francisco Santa Clara San Jose	Paper -----	15	16	1
land	Francisco Santa Clara San Jose	Sheet Steel -----	16½	17½	1
land	Francisco Santa Clara San Jose	Building Paper -----	15	16	1
land	Francisco Santa Clara San Jose	Building Paper -----	*16	17	1
land	Francisco Palo Alto Los Altos Cupertino	Pipe -----	13½	15	1½
land	Francisco Palo Alto	Pipe -----	14½	16	1½
ameda	Los Altos Cupertino	Pipe -----	15½	16	½

From Oakland.
From Alameda.

here will also be increases in the class rates, with slight reductions in the proposed standard class rates when the shipments move in lots ghing 2000 pounds and over. Applicants contend that the original aers of the property, in their desire to secure large tonnage at the inning of operations, published rates entirely too low to make the

venture a success. At the present time and under the rates now in effect the revenue is barely sufficient to pay the out-of-pocket costs of operation, leaving nothing for taxes, depreciation or return on investment. The appraised value of the property secured through the bankruptcy proceedings was given as \$110,000, and applicant is arranging for some \$65,000 of new capital with which to purchase automobile trucks, dredge the waterway and make other necessary improvements. With the new capital there will be property used and useful in the utility service having a value of approximately \$175,000.

A witness for the applicant testified that a thorough canvass had been made of all important shippers concerning the proposed rates, and the necessities for the adjustment clearly explained, and that these patrons supported and endorsed the proposed increased rates. An exhibit consisting of letters from thirty-five shippers was presented, approving the service and urging that it be continued. There was one witness, representing a large hardware company at San Jose, who also testified in favor of the application.

A number of exhibits were introduced setting forth the capital investment, the results from operations during the past years, tonnage checks showing the tonnage carried between all points, and other details. From the facts developed it is manifest applicant should be given the rates sought.

We conclude and find, in view of the circumstances of record in this proceeding, that the present freight rates are unreasonable and insufficient, and that applicant should be permitted to establish the freight rates as set forth in Exhibit "A" attached to and made part of the application.

ORDER.

This application having been duly heard and submitted by the parties, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that William Quinby Wright, Frank Chapman Willson and Godfred Thuesen, trustees, associates doing business under the fictitious name and style of the Bay Shore Freight Lines, be and they are hereby authorized to establish within twenty days from the date hereof, the freight rates applying between San Francisco, Oakland and Alameda to Gilroy, San Jose, Los Gatos, Saratoga and points intermediate thereto, via Port South Shore, as set forth in Exhibit "A" and as amended, attached to and made part of the application.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19090.

IN THE MATTER OF THE APPLICATION OF G. E. SELBY TO SELL, AND A. J. MASON AND W. E. SPOON TO BUY, PASSENGER AND BAGGAGE SERVICE BETWEEN HIGHLANDS INN AND MONTEREY, CALIFORNIA, AND TO DISCONTINUE SERVICE UNDER APPLICATION No. 12064 BETWEEN MONTEREY AND CARMEL-BY-THE-SEA.

Application No. 14175.

Decided December 2, 1927.

CONSOLIDATION MERGER AND SALE—AUTOMOTIVE TRANSPORTATION COMPANY.—G. E. Selby authorized to sell, and A. J. Mason and W. E. Spoon to purchase, a passenger and baggage automotive right between Highlands Inn and Monterey.

AUTOMOTIVE TRANSPORTATION—CERTIFICATES—IN GENERAL.—In authorizing the operation of a stub automotive passenger service to a year-round resort by an existing transportation company, and the transfer to such company of other operative rights, the Commission is not granting a separate operative right to such resort, but is simply authorizing a service to be performed under the consolidated operative rights authorized to be transferred.

VALUATION—INTANGIBLES—OPERATIVE RIGHTS.—Operative rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates.

BY THE COMMISSION.

OPINION AND ORDER.

In this proceeding G. E. Selby has petitioned for an order of the Railroad Commission approving the sale and transfer by him to A. J. Mason and W. E. Spoon, copartners, of an operating right for an automotive service for the transportation of passengers and baggage between Monterey and Highlands Inn, via Carmel-by-the-Sea (hereinafter referred to as Carmel), and A. J. Mason and W. E. Spoon, copartners, ask for authority to purchase and acquire said operating right, to consolidate said right with the operating right authorizing auto stage service between Monterey and Carmel now owned by them, and to hereafter operate under said consolidated rights between Monterey and Highlands Inn, the service beyond Carmel to be seasonal and rendered either on through cars or by a stub service operated between Carmel and Highlands Inn. The sale and transfer is to be in accordance with an agreement of sale, a copy of which is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as the sum of \$3,000, plus the balance not yet due on new engine for piece of equipment proposed to be transferred with said operating right.

The operating right herein proposed to be transferred was granted to G. E. Selby by the Railroad Commission in its Decision No. 15699, dated November 30, 1924, and issued on Application No. 12064. In

that decision the Commission declared that public convenience and necessity required the operation by G. E. Selby of

* * * an automobile stage line for the transportation of passengers and baggage between Monterey and Highlands Inn and intermediate points only between Highlands Inn and Carmel-by-the-Sea.

subject to the condition that applicant Selby

* * * shall not transport passengers and baggage between Monterey and Carmel-by-the-Sea.

The condition hereinabove quoted was imposed because adequate service was given between Monterey and Carmel by Bay Rapid Transit Company, the line now being operated by the partnership of Mason and Spoon. Granting of the instant application will give to Mason and Spoon authority to extend their original service to points beyond Carmel, now served by Selby. Highlands Inn may become a year-round resort and in the event that it does, Bay Rapid Transit Company proposes to give it service during the period between October 15th and February 1st, to the extent of at least one round trip a day from Carmel, at which point connections will be made with its Monterey-Carmel line. The stub service from Carmel to Highlands Inn or through service from Monterey to Highlands Inn will be maintained as traffic demands. This arrangement should make for more economical, adequate and efficient service than is now being given by two separate lines.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted. It must be understood, however, that in authorizing the operation of a stub service between Carmel and Highlands Inn the Commission is not granting a separate operating right between Carmel and Highlands Inn but is simply authorizing a service to be performed under the consolidated operating rights of Mason and Spoon.

The purchaser is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not in any respect limited to the number of rights which may be given. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

It is hereby ordered, that the above entitled application be and the same hereby is granted, subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2. Applicant G. E. Selby shall immediately unite with applicants A. J. Mason and W. E. Spoon, copartners, in common supplement to the tariffs on file with the Commission, applicant Selby on the one hand withdrawing, and applicants Mason and Spoon on the other hand accepting and establishing such tariffs and all effective supplements hereto.

3. Applicant Selby shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicants Mason and Spoon shall immediately file, in duplicate, in their own names, time schedules covering service heretofore given by applicant Selby, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Selby, or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicants Mason and Spoon unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. This order shall not become effective until there has been paid to the Railroad Commission the fee required by the Public Utilities Act to be paid on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19092.

IN THE MATTER OF THE APPLICATION OF THE DIAMOND RIDGE WATER COMPANY, A CORPORATION, FOR A RAISE IN RATES FOR FURNISHING AND DELIVERING WATER TO ITS CONSUMERS.

Application No. 13716.

Decided December 2, 1927.

RATES—INCREASE—WATER UTILITIES.—Diamond Ridge Water Company serving water in and about Diamond Springs and El Dorado in El Dorado County, authorized to increase rates.

SCHEDULES AND TARIFFS—RULES AND REGULATIONS.—A rule of a water utility requiring irrigation consumers to file a seasonal application for water on or

before a specified date, and to pay one-third of the seasonal bill upon making application for service is reasonable and proper.

RATES—PARTICULAR UTILITIES—IRRIGATION.—The establishment of additional rates for cumulative irrigation water and for water not regularly applied for in advance of the irrigation season was authorized.

BY THE COMMISSION.

OPINION.

The Diamond Ridge Water Company, applicant in this proceeding, is a public utility engaged in furnishing water for domestic, commercial and irrigation purposes to approximately seventy consumers along its canals and in and about the towns of Diamond Springs and El Dorado, in El Dorado County.

The application alleges that under the present schedule of rates in effect the revenue received is wholly insufficient to meet the bare maintenance and operating costs and that the Diamond Ridge Water Company is now, and for many years last past has been, operating at a loss. The Commission therefore is requested to establish additional rates for water under cumulative flow and for water applied for after the commencement of the irrigation season.

A public hearing in this matter was held before Examiner Gannon at Placerville, after all interested parties had been notified and given an opportunity to appear and be heard.

The Diamond Ridge Water Company operates a water system comprising about sixty miles of canals and flumes in the section of El Dorado County known as the Diamond Ridge lying between the North Fork of the Cosumnes River and Webber Creek. This ditch system was originally built to supply water for mining purposes in the early days and since the decline of mining has been converted into an irrigation and domestic water supply. With the exception of two small reservoirs with a total capacity of not over thirty acre-feet, there is no storage on the system and reliance must be placed upon the natural, unregulated stream flow in Camp Creek and the North Fork of the Cosumnes River.

This company has been before the Commission in many prior formal proceedings involving matters of service complaints, transfer, rates and discontinuance, in some of which the Commission has made extensive investigations. A more detailed description of the system and its operating methods and conditions will be found in these matters, especially in Decision No. 7749.

In 1925, an application was filed by this utility asking the Commission to authorize the abandonment of the system and the discontinuance of further service; however, the petition was withdrawn as a result of negotiations with some forty of the consumers who, in the same year, acquired all of the capital stock of the corporation for the nominal sum of \$10,000, rather than see the system and water rights abandoned.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

canals and structures were repaired in part and operated by the owners during 1926, the revenues taken in from water sales in year amounting to less than 20 per cent of the operating expenses upkeep of the ditch system. Incomplete records indicate that the revenues for the year 1925 amounted to less than half of the operating expenses of the system. During 1925, practically none of the routine repair work was done by the company; however, a considerable amount of conditioning of the flumes, pipe lines and canals has been done during 1926 and 1927 by the present operators. To repair the ditch system and maintain it in proper shape will require the expenditure of a year of a sum far in excess of the revenues. According to the testimony of P. E. Harroun, one of the Commission's hydraulic engineers, an annual expenditure varying from \$4,500 to \$6,000 will be required to maintain and operate this system in its present condition depending upon the amount of labor which the stockholders are and willing to give without compensation. This estimate is exclusive of any allowance for replacement of structures which will be soon required. After acquiring the property, much of the repair work on the system in 1926 was voluntarily performed by the present stockholders and officers of the company and the maintenance and operating costs presented by the utility do not include any charge for voluntary work. The officers of the company have donated both services and facilities in the carrying on of the affairs of the company and, should all of these charges for such voluntary work, services and facilities be entered in the books, the total expenses would be increased considerably.

statement of the operating revenues and expenses of the Diamond Lake Water Company from 1913 to 1926, inclusive, based upon figures furnished in the Commission's decisions and in the annual reports of the company are as follows:

	<i>Operating revenue</i>	<i>Operating expense</i>
-----	\$1,318 55	\$4,340 32
-----	3,594 15	6,900 73
-----	2,319 74	3,901 50
-----	1,011 90	5,290 05
-----	1,178 65	898 61
-----	1,717 25	5,992 19
-----	1,195 09	5,507 39
-----	1,784 21	5,424 24
-----	3,197 50	7,483 02
-----	4,656 40	7,416 85
-----	No report*	
-----	No report*	
-----	1,449 75	2,324 25
-----	1,087 25	6,932 84

system maintained and operated by El Dorado Water Corporation and included integral part of that system in annual reports to the Commission.

The above statement shows that with the exception of the year 1917 this utility has operated at an annual loss which, for the year 1926, amounted to \$5,846 under present ownership.

The present rates of this utility were fixed by the Commission in its Decision No. 8448, dated December 20, 1920, and are as follows:

For domestic use (flat rate):

For each residence, store, etc.-----	\$1 50 per month
Sprinkling or irrigation of lawns, shrubbery, gardens, etc., up to and including 2500 square feet per month-----	03 per 100 sq. ft.
In excess of 2500 square feet per month-----	01 per 100 sq. ft.

For irrigation purposes (measured rate):

Per miner's inch day (24 hours)-----	30 per inch
(One miner's inch equals a flow of one-fortieth of a cubic foot per second.)	

For industrial purposes (flat rate):

California Door Company-----	75 00 per month
Diamond and Caldor Railway-----	25 00 per month
For hotel at Diamond Springs (flat rate)-----	3 00 per month

In this proceeding applicant does not request any changes in the existing rate schedule other than the establishment of additional rates for cumulative irrigation water and for water not regularly applied for in advance of the irrigation season. This will give to the regular consumer and supporter of the system the original rate of 30 cents and the privilege of accumulating the flow for the slight addition of 5 cents per inch, and will require the user of casual water and nonsupporter of the property to pay the rate of 45 cents per miner's inch. It is estimated that the increase in annual gross revenue resulting from the application of the proposed schedule of rates will be, however, not in excess of 15 per cent over revenues under the present rates.

Application is also made to alter the rules and regulations in effect at the present time so as to require the irrigation consumer to file with the company a seasonal application for water on or before a specific date. The proposed rule applies to the irrigation user only, and also requires the consumer to pay one-third of the seasonal bill upon making application for service, one-third on July 25, and one-third on September 25. The adoption of such a rule and regulation is reasonable and proper and will give the company more definite information for the formulation of its seasonal operating plans and schedules and also will provide at the beginning and at mid-season a portion of the funds necessary for current maintenance and operation expenses.

There is no practical storage on this system and in years of deficient rainfall there is always a shortage of water before the irrigation season is over. There is also the usual tendency among the consumers of irrigation water to delay applying for water as long as possible to take full advantage of the possibility of late rains and a wet year with a

responding heavy demand for water in dry years, resulting in financial inability of this company to maintain its system in proper order. There is the additional element in this case that several of the consumers are not stockholders in the company and, as the revenues are not and can not under present conditions equal operating and maintenance charges, the stockholders are faced with the burden of making up the deficit through stock assessments which the nonstockholders must pay. The net result of this situation is that a part of the consumers are not only paying for their own irrigation service but are paying also a very large portion of the water costs of the other water users. This situation must be remedied soon for the good of the territory served, and the evidence indicates that the rates asked for in this proceeding are the best that can only bring about temporary relief.

The Commission desires to suggest that the water users of this utility take the early steps to adopt some form of organization which will prevent the present unfair spread of the burden of maintaining this system and will place all consumers upon an equal basis. This may be accomplished in several different ways, such as by a mutual water company, irrigation organization or irrigation district, or otherwise.

Considering the evidence presented at the hearing and the fact that no protest was made by any of the consumers, it appears that the application of the Diamond Ridge Water Company should be granted.

ORDER.

Diamond Ridge Water Company, a corporation, furnishing water for domestic, commercial and irrigation uses in and about the towns of Diamond Springs and El Dorado, in El Dorado County, having made application for an increase in rates, a public hearing having been held, the matter having been submitted and the Commission being fully advised in the premises:

It is hereby found as a fact that the rates now charged by Diamond Ridge Water Company for water delivered to consumers are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates for such service.

Basing the order upon the foregoing finding of facts and upon the statement of facts set out in the preceding opinion;

It is hereby ordered, that Diamond Ridge Water Company be and it is hereby authorized to file with this Commission, within thirty (30) days from the date of this order, the following schedule of rates to be charged for water delivered to consumers subsequent to January 1, 1928:

RATE SCHEDULE.

Domestic flat rate service:

For each residence, store, etc.-----	\$1 50 per month
Sprinkling or irrigation of lawns, shrubbery, gardens, etc., up to and including 2500 square feet, per month-----	03 per 100 sq. ft.
In excess of 2500 square feet, per month-----	01 per 100 sq. ft.

Irrigation service (measured rate):

Continuous flow per miner's inch day (24 hours)-----	30
Cumulative flow per miner's inch day-----	35
Additional water not ordered in advance, and furnished after seasonal applications have been satisfied, where water is available, per miner's inch day-----	45
(One miner's inch equals a flow of one-fortieth of a cubic foot per second.)	

Applications for irrigation service shall be filed in the office of the company on or before April 20th of each year the service is required, together with a deposit amounting to one-third ($\frac{1}{3}$) of the total seasonal bill for the amount of water applied for. Balance of payment shall be made in equal installments, due and payable on July twenty-fifth (25th) and September twenty-fifth (25th) of each year of service.

For industrial purposes (flat rate):

California Door Company-----	\$75 00 per month
Caldor Railroad Company-----	25 00 per month
For hotel at Diamond Springs-----	3 00 per month

It is hereby further ordered, that Diamond Ridge Water Company be and it is hereby directed to file with this Commission, within thirty days from the date of this order, rules and regulations covering the application for irrigation water to be furnished irrigators and to be filled out by them when ordering water, said rules and regulations to be in conformity with those attached to the application.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19093.

IN THE MATTER OF THE APPLICATION OF MONROVIA TELEPHONE AND TELEGRAPH COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE OF BONDS.

Application No. 14193.

Decided December 2, 1927.

SECURITY ISSUES—BONDS.—Monrovia Telephone and Telegraph Company authorized to execute a mortgage and/or deed of trust and to issue and sell, on or before June 30, 1928, at not less than par, \$100,000 of 6½ per cent 25-year bonds due October 1, 1952.

ACCOUNTING—PARTICULAR ITEMS—PREMIUM ON BONDS.—If a utility elects to pay bonds before maturity and pays a premium on the bonds, such premium must be charged to surplus.

EVIDENCE—PRESUMPTION AND BURDEN OF PROOF—PROPOSED ISSUE OF SECURITIES.—Until a satisfactory showing is made as to the amount of surplus earnings

CALIFORNIA RAILROAD COMMISSION DECISIONS.

expended for additions and betterments, a utility will not be allowed to issue bonds to reimburse its surplus account.

felveny, Milliken and Tuller and Dunn and Sturgeon, for Applicant.

THE COMMISSION.

OPINION.

In this application, as amended at the hearing, the Monrovia Telephone and Telegraph Company asks permission to execute a mortgage l/or deed of trust on its properties; to issue and sell at par \$100,000 its first mortgage 6½ per cent 25-year bonds, due October 1, 1952, the purpose of paying outstanding indebtedness, reimbursing its asury and financing the cost of additions and betterments, to which erence will be made hereafter.

Applicant is engaged in the business of owning and operating a phone system in the city of Monrovia and in territory adjoining reto, including territory situated within the unincorporated town of arte and in the city of Arcadia. It reports outstanding \$100,000 common stock and \$25,000 of first mortgage 6 per cent bonds due 1934. Its other indebtedness as of September 30, 1927, appears in following balance sheet:

Assets.

nt and equipment—

and and buildings	\$15,635 36
entral office equipment	29,973 03
tation equipment	22,622 87
lxchange lines	67,179 42
eneral equipment	6,139 57
lant and equipment in service, January 1, 1915	110,462 67

Total plant and equipment	\$252,012 92
urities	200 00
h	1,388 36
e from subscribers and agents	4,412 61
terials and supplies	1,552 32
payments	1,265 68
amortized discount on capital stock	2,850 00
amortized bond discount and expense	100 00

Total assets-----\$263,781 89

ilities and capital—

apital stock	\$100,000 00
'unded debt	25,000 00
otes payable	25,000 00
ontracts payable—switchboard equipment	9,276 24
ccounts payable	9,275 90
ccrued interest on bonds	\$375 00
ccrued interest on notes	530 00
	905 00
epreciation reserve	77,943 59
urplus	16,381 16

Total liabilities and capital-----\$263,781 89

Applicant, as stated, asks permission to issue and sell at par \$100,000 of 6½ per cent 25-year bonds, due October 1, 1952. Its representatives are of the opinion that these bonds can be sold without any expense to the company. It proposes and asks permission to use the proceeds for the following purposes (Exhibit 4):

To refund outstanding bonds-----	\$25,000 00
To pay general bills-----	13,865 59
To pay seven per cent notes-----	25,000 00
To pay toll bills-----	6,782 90
To reimburse the company's treasury for moneys expended for additions and betterments from January 1, 1923, to October 31, 1927-----	24,095 36
Balance to be used as per supplemental order-----	5,256 15
Total -----	\$100,000 00

Applicant's \$25,000 of bonds outstanding bear interest at the rate of 6 per cent per annum. They were issued in 1904 and mature on January 1, 1934. They are callable at 105. It is applicant's intention to pay the bonds. If it pays a premium on the bonds, such premium must be charged to surplus.

The general bills to which reference has been made consist of:

a. Balance due Stromberg Carlson Co. for switchboard-----	\$8,776 24
b. John A. Roebling Sons—Cable-----	253 26
c. Addressing machine—Addressograph Co.-----	210 96
d. Kellogg Switchboard and Supply Co.-----	336 25
e. New section switchboard—Stromberg Carlson Co.-----	4,055 70
f. Kierulff and Ravenscroft-----	233 18
Total -----	\$13,865 59

It is of record that the \$13,865.59 represents expenditures incurred for the purpose of extending and enlarging applicant's telephone system. For the same purpose it has expended the \$25,000 obtained through the issue of notes, the \$6,782.90 of earnings which should have been used to pay toll bills and the \$24,095.36 for which it asks permission to reimburse its treasury.

In Exhibit 1 applicant reports that from August 1, 1923, to October 31, 1927, it expended for additions and betterments to its plants and properties \$92,540.01. It estimates that its loss on account of the retirement of its old switchboard will be \$10,000, leaving a net construction expenditure of \$82,540.01. The company asks permission to reimburse its treasury in the sum of \$24,095.36. While we are satisfied that applicant has expended for additions and betterments from income such sum, no satisfactory showing was made as to the amount of surplus earnings expended for additions and betterments. Until such a showing is made, we will not allow applicant to issue bonds to reimburse its surplus account. The order herein will provide that the \$24,095.36 be used to reimburse applicant's depreciation reserve and that unless

otherwise permitted by a supplemental order the \$24,095.36 be used to construct additions and betterments and replace and renew existing properties.

Applicant has filed a copy of its proposed mortgage and/or deed of trust with the Commission. We have examined the same and find it to be in satisfactory form except that the interest rate on the bonds should be changed from 7 to $6\frac{1}{2}$ per cent. The proposed instrument secures the payment of an authorized bond issue of \$100,000, redeemable on any interest payment date at $102\frac{1}{2}$ per cent of the par value of the bonds and accrued interest.

ORDER.

Monrovia Telephone and Telegraph Company having asked permission to execute a mortgage and/or deed of trust and issue \$100,000 of $6\frac{1}{2}$ per cent bonds, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income and that this application should be granted, as herein provided; therefore,

It is hereby ordered, as follows:

1. Monrovia Telephone and Telegraph Company may execute a mortgage and/or deed of trust in substantially the same form as the mortgage and/or deed of trust filed in this proceeding on November 4, 1927; provided, that the interest rate be changed from 7 to $6\frac{1}{2}$ per cent per annum; and provided, further, that the authority herein granted to execute such mortgage and/or deed of trust is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of such mortgage and/or deed of trust as to such other legal requirements to which said mortgage and/or deed of trust may be subject.

2. Monrovia Telephone and Telegraph Company may issue and sell on or before June 30, 1928, at not less than par net to said company \$100,000 of $6\frac{1}{2}$ per cent 25-year bonds due October 1, 1952, and use the proceeds for the purposes set forth in Exhibit 4 filed in this proceeding; provided, that the \$24,095.36 which may be used to reimburse applicant's treasury be used to reimburse its depreciation reserve and used to pay for additions and betterments or to replace existing properties; and provided, further, that any premium that is paid on outstanding bonds be charged to surplus; and provided, further, that \$5,256.15 of said proceeds be expended only for such purposes as the Commission will hereafter authorize by a supplemental order or orders.

3. The authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$100.

4. Within thirty days after the execution of the mortgage and/or deed of trust herein authorized, Monrovia Telephone and Telegraph Company shall file with the Railroad Commission two certified copies of such instrument.

5. Monrovia Telephone and Telegraph Company shall keep such record of the issue, sale and delivery of the bonds herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19096.

ROSENBERG BROS. & COMPANY, A CORPORATION,

vs.

CENTRAL CALIFORNIA TRACTION COMPANY, A CORPORATION, AND
SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 2387.

Decided December 2, 1927.

REPARATION.—Central California Traction Company directed to refund to complainant all charges collected in excess of 8 cents per 100 pounds for the transportation of two carloads of dried fruit forwarded from Lodi to San Francisco during September and December, 1925.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the State of California with its principal place of business at San Francisco, California, is engaged in buying, packing and selling dried fruits. By complaint filed July 14, 1927, and as amended October 11, 1927, it alleges that the rate charged on two carloads of dried fruit shipped September 12 and December 18, 1925, from Lodi to San Francisco was unduly prejudicial and discriminatory to the extent it exceeded 8 cents per 100 pounds, the contemporaneous rate applicable on like traffic over the Southern Pacific Company from Lodi to San Francisco.

Reparation only is sought. Rates are stated in cents per 100 pounds.

The shipments moved over the Central California Traction Company to Stockton, thence Southern Pacific Company, a distance of 103 miles. Charges were collected at the applicable combination rate of 15 cents, made up of the fourth class rate of 7 cents to Stockton and a commodity

of 8 cents beyond. Lodi is also served by the Southern Pacific and distance via that carrier to San Francisco is 103 miles.

The request for reparation is predicated upon the fact that defendants maintain joint class rates, also joint commodity rates on canned goods, wool and mohair from Lodi to San Francisco that are on the same basis as rates via the Southern Pacific direct, and the rate via the Southern Pacific on dried fruit at the time the shipments involved in this proceeding moved was 8 cents. This rate was established effective May 1926, to apply via the route the shipments moved.

Defendants admit the allegation of the complaint and have signified a willingness to make reparation adjustment, therefore under the issues they now stand, a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unduly prejudicial and discriminatory to the extent it exceeded the contemporaneous rate of 8 cents from Lodi to San Francisco via the Southern Pacific; that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged in the amount of the difference between the charges paid and those that would have accrued at the rate of 8 cents and that it is entitled to reparation.

Complainant will submit statement to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation matter may be referred to the Commission for further attention and entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part thereof;

It is hereby ordered, that defendants, Central California Traction Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Rosenberg Bros. & Company of San Francisco, California, all charges they may have collected in excess of 8 cents per 100 pounds for the transportation of two carloads of dried fruit involved in this proceeding and forwarded from Lodi to San Francisco during September and December, 1925.

Dated at San Francisco, California, this second day of December, 1925.

DECISION No. 19097.

GOLDEN STATE AUTO TOURS CORPORATION, TANNER MOTOR TOURS,
AND GRAY LINE MOTOR TOURS, INC.,

vs.

C. C. C. TATUM, STANDARD AUTO TOURS, AND D. G. HENDERSON.

Case No. 2417.

Decided December 2, 1927.

AUTOMOTIVE TRANSPORTATION—SIGHT-SEEING SERVICE—ILLEGAL OPERATIONS.—

Defendant, not coming within the provisions of section 50½ of the Public Utilities Act and not possessing a certificate, ordered to cease and desist from conducting sight-seeing operations as a common carrier between Los Angeles, San Diego and Tia Juana.

Richard T. Eddy, for Complainants.*CARR*, Commissioner.

OPINION.

This is a complaint by various operators of regularly running sight-seeing busses from Los Angeles to San Diego and Tia Juana and return against C. C. C. Tatum, Standard Auto Tours and D. G. Henderson, in which it is alleged that the defendants are operating sight-seeing tours over this route without having a certificate therefor or being otherwise authorized to operate as common carriers.

Defendant Henderson, in due time, filed an answer (which he did not serve on the complainants) in which he sets out that he is the owner of Standard Auto Tours and that for a period of more than three consecutive months during 1926 he operated sight-seeing trips from Los Angeles to San Diego and Tia Juana and return. The answer proceeds to allege that he filed tariffs with the Commission about the middle of August and that his codefendant Tatum is not interested in Standard Auto Tours but is a real estate operator engaged in real estate operations on Mission Bay, near San Diego, and that Henderson honored tickets sold by Tatum to prospective purchasers of real estate, the said tickets being sold at the regular tariff rates.

There is in the file of this case a letter from Frank P. Doherty, attorney, in which he states Mr. Tatum has discontinued the operation complained of and that Mr. Tatum will not appear at the proceeding.

Notice of the time and place of hearing was duly given to all of the named defendants but none appeared.

At the hearing complainants adduced a large amount of testimony which established very definitely that in 1925 the defendant Henderson did for several months in that year operate the Standard Auto Tours in connection with a real estate operation of one Lawrence at Coronado, and conducted sight-seeing excursions from Los Angeles to San Diego

and Tia Juana and return, but that during the year 1926 no sight-seeing operations were carried on by Henderson over this route for three consecutive months, or at all, and that in the early summer of the present year Henderson, with his Standard Auto Tours, commenced running sight-seeing busses from Los Angeles to San Diego and Tia Juana and return on behalf of C. C. C. Tatum and in connection with the latter's real estate operations at Coronado. At or shortly after the date on which the complaint herein was filed the defendants discontinued these operations.

The defendants had no operative right to conduct a sight-seeing business over the route in question except as they came within the provisions of section 50½ of the Public Utilities Act, by being engaged on January 1, 1927, in operating over this route or by having so operated for three consecutive months during 1926. The evidence adduced clearly shows that they do not come within this provision of the statute and that they have no right to operate over the route without securing certificate of public convenience and necessity, which they have never secured.

I recommend the following form of order :

ORDER.

This complaint having been duly set for hearing, evidence having been presented and the Commission having considered the evidence and basing its opinion upon the facts in the record and found in the foregoing opinion ;

It is hereby ordered, that the defendants, and each of them, be and they are hereby ordered and required to desist from operating, as common carriers, passenger stages over the public highways from Los Angeles to San Diego and Tia Juana and return, without first securing certificate of public convenience and necessity therefor.

It is hereby further ordered, that Local Passenger Tariff C. R. C. No. 2, issued August 25, 1927, and effective August 29, 1927, by The Standard Auto Tours, D. G. Henderson, owner, be and the same is hereby canceled.

The foregoing opinion and order are hereby adopted as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19098.

SHELL COMPANY OF CALIFORNIA

vs.

SOUTHERN PACIFIC COMPANY, NORTHWESTERN PACIFIC RAILROAD
COMPANY AND CALIFORNIA WESTERN RAILROAD AND NAVIGATION
COMPANY.

Case No. 2419.

Decided December 2, 1927.

REPARATION.—Defendants directed to refund all charges collected in excess of 47 cents per 100 pounds for the transportation of 27 carloads of gasoline forwarded from Martinez to Fort Bragg during the period October 1, 1926 to July 10, 1927.

BY THE COMMISSION.

OPINION.

Complainant, a corporation, organized under the laws of the State of California, with its principal place of business at San Francisco, is engaged in buying, refining and marketing petroleum oils and products thereof. By complaint filed September 28, 1927, it alleges that the rate charged on 27 carloads of gasoline moved from Martinez to Fort Bragg during the period October 1, 1926, to July 10, 1927, was unduly prejudicial to the extent it exceeded the contemporaneous rate applicable on like traffic from Richmond to the same destination.

Reparation only is sought. Rates will be stated in cents per 100 pounds.

Martinez is on the Southern Pacific 20 miles east of Richmond. Fort Bragg is on the California Western Railroad and Navigation Company 216 miles from Martinez and 228 miles from Richmond. The shipments involved moved over the Southern Pacific to Shellville Junction, Northwestern Pacific to Willits, thence to destination over the California Western Railroad and Navigation Company. No joint rate was in effect and charges were collected on the basis of a combination rate of 50 cents composed of a factor of 3 cents to Richmond and 47 cents beyond.

The request for reparation is predicated upon the fact that at the time the shipments moved the rate from the competing refinery at Richmond to Fort Bragg was 47 cents. This rate was established effective July 10, 1927, to apply from Martinez, thereby removing the alleged prejudice.

Defendants admit the allegation of the complaint and have signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unduly prejudicial to the extent it exceeded the contemporaneous rate of 47 cents from Richmond to Fort

ragg; that complainant made the shipments as described and paid and bore the charges thereon; that it has been damaged in the amount the difference between the charges paid and those that would have accrued at the rate of 47 cents and that it is entitled to reparation. Complainant will submit statement to defendant for check. Should not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and giving this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, Southern Pacific Company, Northwestern Pacific Railroad Company and California Western Railroad and Navigation Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, Shell Company of California, all charges they may have collected in excess of 47 cents per 100 pounds for the transportation of 27 carloads of gasoline involved in this proceeding, forwarded from Martinez to Fort Bragg during the period from October 1926, to July 10, 1927.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19099.

CALIFORNIA ALMOND GROWERS' EXCHANGE

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND
THE WESTERN PACIFIC RAILROAD COMPANY.

Case No. 2433.

Decided December 2, 1927.

REPARATION.—Defendants directed to refund to complainant all charges collected in excess of 17 cents per 100 pounds for the transportation of almonds forwarded from Oakdale to Sacramento during the period September 10 to November 14, 1926.

THE COMMISSION.

OPINION.

Complainant, a corporation, with its principal place of business at San Francisco, California, is engaged in growing, preparing and shipping almonds. By complaint filed October 18, 1927, it alleges that the rates charged on numerous carloads of almonds transported from

Oakdale to Sacramento during the period from September 10 to November 14, 1926, were unjust and unreasonable.

Reparation only is sought. Rates are stated in cents per 100 pounds.

The shipments consisted of 448,037 pounds of unshelled almonds and 60,480 pounds of shelled almonds. Rates of 17 cents and 31 cents, respectively, were charged. The former is the carload rate on almonds in the shell, shown in Item 13630 of Pacific Freight Tariff Bureau Tariff 34-K, F. W. Gomph's C. R. C. No. 372; the latter is the first class rate shown in the same tariff.

Complainant contends that from December 1, 1925, to August 1, 1926, defendants maintained a carload rate of 17 cents from and to the points involved and applicable on almonds without any restrictions; that on August 1, 1926, Supplement No. 17 to Tariff 34-K became effective and the item naming the 17-cent rate was changed to read, "Almonds, in the shell"; furthermore, this item carried a reference mark reading, "Change, no advance or reduction." This publication was erroneous, as it created an increase not authorized by this Commission.

Effective October 5, 1927, the commodity description in connection with the item naming the 17-cent rate was changed to read, "Almonds, shelled or not shelled, in bags, boxes or barrels."

Defendants admit that the rate charged on the shelled almonds was unreasonable to the extent that it exceeded 17 cents, and have signified a willingness to make reparation adjustment; therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed for the transportation of shelled almonds was unreasonable to the extent it exceeded a rate of 17 cents per 100 pounds which was effective prior to the date the shipments involved in this proceeding moved and which was subsequently established; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation.

Complainant will submit statement of shipments to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation, the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, The Atchison, Topeka and Santa Fe Railway Company and the Western Pacific Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, California Almond Growers' Exchange of San Francisco, California, all charges they may have collected in excess of 17 cents per 100 pounds for the transportation of the shipments involved in this proceeding and forwarded during the period from September 10 to November 14, 1926, inclusive, from Oakdale to Sacramento, California.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19100.

CALIFORNIA PACKING CORPORATION

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY AND
SOUTHERN PACIFIC COMPANY.

Case No. 2434.

Decided December 2, 1927.

REPARATION.—Defendant directed to refund to complainant all charges collected in excess of 15½ cents per 100 pounds for the transportation of 24 carloads of fresh fruit forwarded from Calpack and Planada to Kingsburg during the period August 7 to September 9, 1926.

RATES—RAILROAD—SPECIFIC COMMODITIES—FRESH FRUIT.—It is the usual practice of rail carriers to establish commodity rates on fresh fruit, carloads, not exceeding the Class "C" rates.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the state of New York, with its principal place of business at San Francisco, California, is engaged in the packing of dried fruits and canned goods.

By complaint filed October 20, 1927, it alleges that the rates applicable on fresh fruit, carload, from Calpack and Planada to Kingsburg during the period from August 7 to September 9, 1926, both dates inclusive, were unjust and unreasonable to the extent they exceeded a rate of 15½ cents.

We are asked to award reparation on 24 carloads of fresh fruit and to authorize defendants to waive uncollected charges of \$5.35 on three carloads moved from Planada to Kingsburg. Rates are stated in cents per 100 pounds.

Calpack and Planada are on The Atchison, Topeka and Santa Fe Railway between Tuttle and Fresno; Kingsburg is on the Southern Pacific Company 20 miles southeast of Fresno and 26 miles northeast of Hanford. Of the shipments 23 moved from Calpack and 4 from

Planada, and the lawfully applicable combination rates of $17\frac{1}{2}$ cents from Calpack and 16 cents from Planada to Kingsburg were charged on all shipments except on three cars moved from Planada August 7, 1926, against which an erroneous rate of $15\frac{1}{2}$ cents was assessed.

The rate from Planada is made $8\frac{1}{2}$ cents to Fresno and $7\frac{1}{2}$ cents beyond. The former is shown in The Atchison, Topeka and Santa Fe Railway Tariff 11992-E, C. R. C. 550; and the latter, applicable from Fresno to Hanford and held as maximum on shipments destined to Kingsburg, is shown in Southern Pacific Company's Tariff 817-C, C. R. C. 2865. The rate from Calpack to Kingsburg is the third class rate, Item 30-H of Atchison, Topeka and Santa Fe Railway Tariff 9885-E, C. R. C. No. 504, and Item 85-G of Southern Pacific Company Tariff 711-C, C. R. C. 2843.

It is the usual practice of rail carriers to establish commodity rates on fresh fruit, carload, not exceeding the Class "C" rates. The combination Class "C" rate between the points involved in this proceeding was $15\frac{1}{2}$ cents, and a joint commodity rate of the same volume applicable to the transportation hereinbefore described was established May 3, 1927.

Complainant bases its plea for reparation upon the subsequently established rate. Defendants admit the applicable rates were unjust and unreasonable and have signified a willingness to make reparation adjustment to the basis of the subsequently established rate, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rates assailed were unjust and unreasonable to the extent they exceeded the subsequently established rate; that complainant made the shipments as described, paid and bore the charges thereon and is entitled to reparation of all charges collected in excess of $15\frac{1}{2}$ cents.

Complainant will submit statement to defendants for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answers on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendants, The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant, California Packing Cor-

poration of San Francisco, California, all charges they may have collected in excess of 15½ cents per 100 pounds for the transportation of 24 carloads of fresh fruit moved during the period from August 7 to September 9, 1926, inclusive, from Calpack and Planada to Kingsburg and waive uncollected charges of \$5.35 on three carloads of fresh fruit moved from Planada to Kingsburg August 7, 1926.

Dated at San Francisco, California, this second day of December, 1927.

DECISION No. 19049.

IN THE MATTER OF THE APPLICATION OF THE CITY OF LOS ANGELES FOR AN ORDER GRANTING PERMISSION TO THE CITY OF LOS ANGELES TO CONSTRUCT A RAILROAD TRACK ACROSS CERTAIN TRACKS OF THE PACIFIC ELECTRIC RAILWAY COMPANY AND THE SOUTHERN PACIFIC COMPANY AT GRADE, AND DETERMINING AND PRESCRIBING THE MANNER AND THE TERMS OF INSTALLATION, OPERATION, MAINTENANCE, USE AND PROTECTION OF SUCH CROSSING.

Application No. 13737.

Decided November 19, 1927.

GRADE CROSSINGS—CONSTRUCTION AUTHORIZED.—City of Los Angeles authorized to construct a railroad track at grade across four tracks of the Pacific Electric Railway Company and the Southern Pacific Company, located in the Harbor District of Los Angeles.

CROSSINGS—DIVISION OF COSTS—GRADE CROSSINGS—CONSTRUCTION.—In apportioning the expense of construction of grade crossings, where it is shown that existing facilities of the carriers involved are ample for years to come, the costs of installing additional facilities for distant future use should be paid for by the owning company desiring such facilities.

Frank Karr, for Pacific Electric Railway Company and Southern Pacific Company.
Jess E. Stephens, City Attorney, and *Clyde M. Leach*, Assistant City Attorney, for Applicant.

E. W. Camp, for The Atchison, Topeka and Santa Fe Railway Company.

CARR, Commissioner.

OPINION.

The city of Los Angeles by this application seeks permission to construct a railroad track at grade across tracks of the Pacific Electric Railway Company and the Southern Pacific Company at certain points in the Harbor District. Although not a part of this proceeding, the city proposes to separate the grades of this line with Harbor Truck boulevard adjacent to the Southern Pacific Company's right of way. The railroad companies opposed the granting of the application for a grade crossing of their Los Angeles-San Pedro lines and contend that the crossings of these lines, if constructed, should be at separated grades.

Various hearings have been had on this application and the matter is now under submission and ready for decision.

By Decision No. 13663 (25 C. R. C. 42), dated June 9, 1924, Decision No. 15121 (26 C. R. C. 721), dated June 30, 1925 (Application No. 9712) and Decision No. 16412 (27 C. R. C. 861), dated April 5, 1926 (Application No. 12517), the Commission permitted the city of Los Angeles to construct its municipal harbor railway at grade across Anaheim road and Pacific Electric tracks therein at McFarland avenue, in the Wilmington District, for the purpose of effecting a physical connection with the tracks of the Santa Fe and Los Angeles Harbor Railway Company, a subsidiary of The Atchison, Topeka and Santa Fe Railway Company. The use of this crossing at grade, however, was limited in the orders in those decisions to a period of two years, and expires, under Decision No. 16412, on April 5, 1928. The reason for this limitation, as expressed in the opinions in the decisions on the above applications, was that the city of Los Angeles was working out a plan by which in time all of the railroads entering the Harbor District would cross Anaheim road under grade through the Dominguez Slough route. Prior to the last two decisions referred to above, the Commission authorized, by its Decision No. 14919, dated May 14, 1925 (26 C. R. C. 448), in Application No. 11048, the construction of a viaduct on Anaheim road over the Dominguez Slough to accommodate a drainage channel and to provide space which will be ample for the tracks of all railroads entering the harbor. This viaduct has been constructed.

By the instant application, the city seeks to comply with the terms of said Decision No. 16412 by effecting a connection with the Santa Fe tracks and its harbor belt line railroad via the Dominguez Slough route, the connection to pass under the Anaheim road viaduct. It appears that the city of Los Angeles and the Santa Fe Railway Company have entered into an agreement whereby the railway has agreed to pay a portion of the expense of constructing the proposed entrance to the harbor.

In this proceeding, evidence was presented as to the plans perfected by the city of Los Angeles for handling rail traffic at the harbor. These involve a classification yard to the north of the Dominguez Slough viaduct on Anaheim road, from whence traffic could flow under Anaheim road into and out of the Harbor District. Apparently this plan has been worked out very carefully in conjunction with the Greater Harbor Committee of Two Hundred of Los Angeles. This plan is shown upon a map offered in evidence by the city as Exhibit No. 8, copy of which is attached to this opinion and order as Exhibit "A." It is significant that representatives of all the various railroads entering the harbor have certified on this map that the plan is feasible from a construction and operative and traffic standpoint. However,

it is set forth on the exhibit that the railroad companies are not committed to the adoption of the plan.

In view of the Commission's previous orders, heretofore referred to, and the evidence in this proceeding, it is obvious that the permission sought should be granted and the city facilitated in carrying out its plan of harbor development.

The Pacific Electric Railway Company and the Southern Pacific Company urged most strenuously that it would be more costly to cross their Los Angeles-San Pedro tracks at grade than it would be to construct an undergrade crossing. Estimates and counter-estimates and revisions of estimates and criticisms of revisions of estimates were presented by the respective parties.

The railroad companies' estimates, including capitalized annual costs, show differences in costs between the estimates for a crossing at grade, as compared to an undergrade crossing, to favor the construction of separated grades, while the city's corresponding estimates clearly show the opposite.

A careful consideration of the estimates does not support the contention that a crossing at grade is more expensive than an undergrade crossing, even including a capitalization of annual costs of operation and depreciation.

While the connection proposed herein by the city is sometimes spoken of as affording a permanent connection for the Santa Fe with the Harbor District, it is apparent that this expression was used to distinguish the connection from the temporary connection authorized by said Decision No. 16412. Ultimately, if the plans of the city are realized, the tracks which it proposes to construct under this proceeding will become industrial tracks to serve the district immediately north and west of the proposed crossings, while the main route to the harbor for the Santa Fe will, in a general way, follow the line of Harbor Truck boulevard from a point on its line on Slauson avenue on the north to the classification yard referred to. Under this comprehensive plan, the tracks of the defendant companies to be crossed may in time also become minor industrial tracks.

The city indicates its willingness to construct suitable interlocking devices to protect three of the four crossings which it seeks permission to make. Such interlockers should afford adequate protection against danger to life or property at these crossings and it has been a common practice for the defendant railroads to make such installations. That the crossings, if allowed, will somewhat slow up passenger traffic on the Pacific Electric Railway Company's line can not be questioned. The evidence shows, however, that there are now but four train movements per day on the Santa Fe entering or leaving the Harbor District via the McFarland avenue connection and the city is agreeable to a plan

which limits these movements to those portions of the day when traffic upon the Pacific Electric Company's lines is light. If such a plan is carried out, the establishment of this grade crossing should not present any substantial inconvenience to the Pacific Electric's passenger service.

Estimates furnished by the opposing railway companies include items for doubling their present track facilities. However, the testimony of their witnesses shows that their existing facilities are ample for years to come and that the Pacific Electric can now handle 150 per cent of its present traffic with these facilities. The Commission often has held, under such conditions, that the costs of installing additional facilities for distant future use should be paid for by the owning company desiring such facilities.

The following form of order is recommended:

ORDER.

City of Los Angeles having made application to this Commission for an order granting permission to the city of Los Angeles to construct a railroad track at grade across certain tracks of the Pacific Electric Railway Company and the Southern Pacific Company at the points marked "W," "X," "Y" and "Z," as shown by the map (Exhibit "A") attached to the application, and for an order determining and prescribing the manner and the terms of installation, operation, maintenance, use and protection of such crossings, public hearings having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision:

It is hereby found as a fact that public convenience and necessity require the establishment of crossings at the points applied for in this application and hereinbefore mentioned; therefore,

It is hereby ordered, that permission be and it is hereby granted to the city of Los Angeles, county of Los Angeles, State of California, to construct and maintain a railroad track at grade across the following tracks:

1. Double main line track of the Los Angeles-San Pedro Line of Pacific Electric Railway Company at point marked "W" near Q street;
 2. The single main line track of the San Pedro Branch of Southern Pacific Company at point marked "X" near Q street;
 3. The single track of the Long Beach Line of Southern Pacific Company at "Y"; and
 4. The single track of Wilmington-Long Beach Line of the Pacific Electric Railway Company at "Z";
- all as shown on map Exhibit "A" attached to the application, said crossings to be constructed subject to the following conditions and not otherwise:

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The entire expense of constructing the crossings, including the of two first-class interlocking plants, one for the protection of igs "W" and "X" and the other for crossing "Z," shall be by applicant.

The maintenance of said crossings shall be borne by applicant. maintenance of said interlocking plants shall be borne in accord- with such agreement as may be determined proper by the inter- parties. Said agreement shall be filed with this Commission for val within ninety (90) days of the date of this order. If the s hereto are unable to reach an agreement on the division of the enance costs of said interlocking plants, the division of mainte- costs shall be apportioned by this Commission by supplemental

Said interlocking plants shall conform to Commission's general governing installation and operation of interlocking plants and thereof shall be submitted to the Commission for approval.

All trains, motors, engines or cars of applicant and of Southern e Company shall stop before crossing the intersection of appli- track with the track of Southern Pacific Company's Long Beach it crossing designated as "Y," and shall not proceed thereover it has been ascertained that it is safe so to do.

No train, motor, engine or car of applicant shall be operated aid crossing at "W" (Pacific Electric's Los Angeles-San Pedro from 7 a.m. to 9 p.m. and from 4 p.m. to 7 p.m. daily.

Applicant shall, within thirty days thereafter, notify this Com- n, in writing, of the completion of the installation of said igs.

If said crossings shall not have been installed within one year he date of this order, the authorization herein granted shall then and become void, unless further time is granted by subsequent

The Commission reserves the right to make such further orders ve to the location, construction, operation, maintenance and pro- 1 of said crossings as to it may seem right and proper, and to e its permission if, in its judgment, the public convenience and ity demand such action.

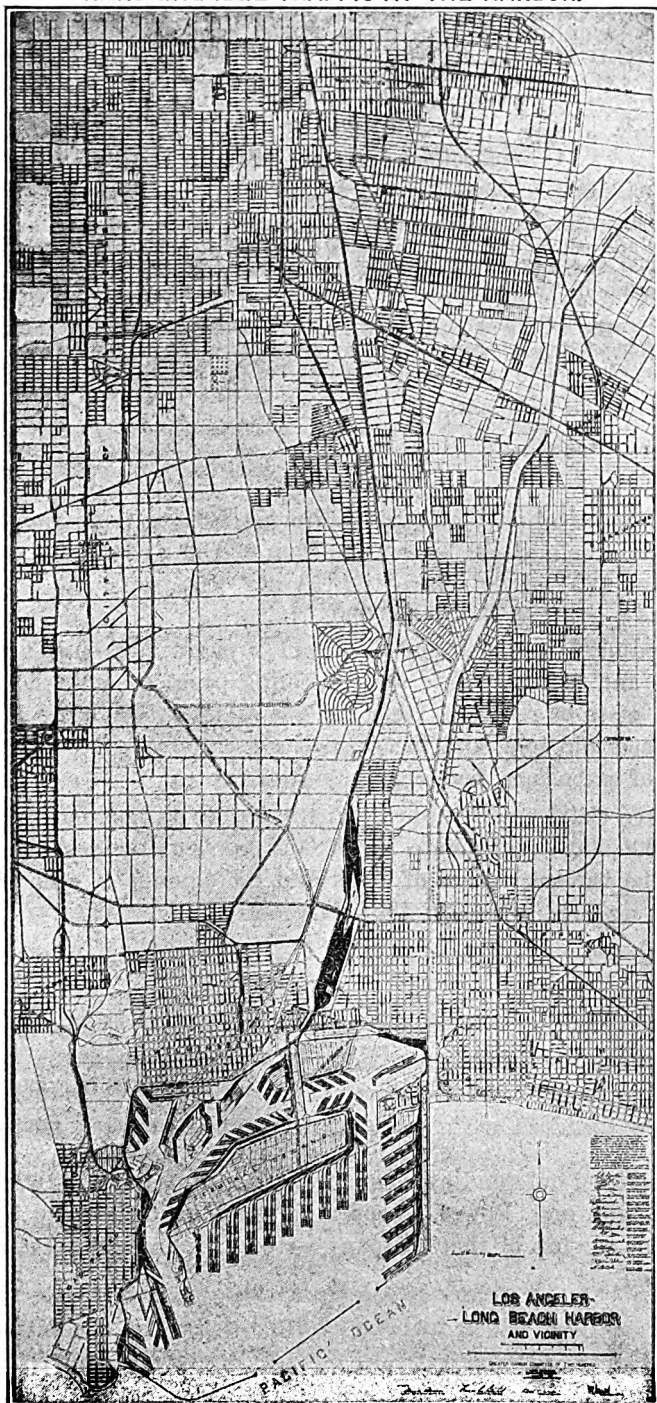
foregoing opinion and order are hereby approved and ordered s the opinion and order of the Railroad Commission of the State lifornia.

all other purposes the effective date of this order shall be twenty rom and after the date hereof.

ed at San Francisco, California, this nineteenth day of November,

EXHIBIT "A."

MAP SHOWING PLANS PERFECTED BY CITY OF LOS ANGELES FOR
HANDLING RAIL TRAFFIC AT THE HARBOR.



48-52641

DECISION No. 19052.

THE MATTER OF THE APPLICATION OF SOUTHERN CALIFORNIA EDISON COMPANY, A CORPORATION, FOR AUTHORITY TO ISSUE AND SELL FOUR HUNDRED THOUSAND SHARES OF ITS PREFERRED STOCK, SERIES "C," FIVE AND ONE-HALF PER CENT.

Application No. 14187.

Decided November 21, 1927.

CURITY ISSUES—STOCK.—Southern California Edison Company authorized to issue and sell on or before December 31, 1928, at not less than \$23.50 a share, 400,000 shares of its 5½ per cent preferred stock, Series "C," of the aggregate par value of \$10,000,000.

CURITY ISSUES—COST OF FINANCING.—In authorizing the issue and sale of stock, the Commission allowed a payment of not exceeding fifty cents per share for commissions and other expenses incident to the sale of such stock.

W. V. Reppy, for Applicant.

THE COMMISSION.

OPINION.

In this application Southern California Edison Company asks permission to issue and sell, at not less than \$23.50 a share, 400,000 shares (par value \$25) of its series "C" 5½ per cent preferred stock of the aggregate par value of \$10,000,000. It further asks permission to use not exceeding \$1 per share of stock sold to pay commissions and selling expenses and to consolidate the remaining proceeds with the proceeds received, or to be received, from the sale of stock heretofore authorized to be issued and sold, and to use such consolidated proceeds to finance the cost of extensions, betterments and additions.

Southern California Edison Company has an authorized capital stock of \$250,000,000, divided into 10,000,000 shares of the par value of \$25 each. The various classes of stock and the amount of each class outstanding on September 30, 1927, is reported as follows:

<i>Class of stock</i>	<i>Authorized</i>	<i>Outstanding</i>
Original preferred		
Preferred, Series "A"—7%	\$4,000,000 00	\$4,000,000 00
Preferred, Series "B"—6%	30,000,000 00	25,554,100 00
Preferred, Series "C"—5½%	50,000,000 00	47,822,825 00
Preferred, Series "D"—5%	20,000,000 00	1,779,275 00
Common	21,000,000 00	
	125,000,000 00	59,427,475 00
Totals	\$250,000,000 00	\$138,083,675 00

The reported outstanding common stock includes \$10,836,628 held by Pacific Light and Power Corporation and controlled by applicant through ownership of that company's stock, leaving net outstanding of 8,590,847.

In addition to the amounts outstanding applicant reports stock subscribed for, but unissued, as of September 30, 1927, as follows:

Preferred, Series "A"-----	\$28,000 00
Preferred, Series "B"-----	2,595,125 00
Preferred, Series "C"-----	680,575 00
Common -----	2,739,150 00
Total subscribed -----	\$6,042,850 00

The company now reports the necessity of issuing additional stock to finance in part its 1927 and 1928 construction expenditures. In this connection it is reported that its total expenditures, as of September 30, 1927, against which no securities have been issued, amount to \$754,-171.31 and it is estimated that expenditures for the remaining three months of the year will approximate \$9,000,000, and for the year 1928, \$32,091,000, the three items aggregating \$41,845,171.31. The 1927 expenditures have been described in some detail in the company's budget filed as Exhibit "G" in Application No. 13602. In addition to the items set forth in the budget, applicant now reports, in this proceeding (Exhibit "7"), that it has found it necessary to expend \$180,176.23 for purposes in addition to but not included among the items in the budget.

The 1928 estimated expenditures are set forth in a copy of the 1928 budget filed in the present proceeding as Exhibit "6," and summarized, are as follows:

Big Creek construction-----	\$5,982,000 00
220 k.v. lines and stations-----	2,122,000 00
New steam plants -----	5,712,000 00
Auxiliary units—Long Beach steam plant-----	275,000 00
Civil engineering department-----	50,000 00
Rights of way-----	1,000,000 00
Miscellaneous system betterments-----	16,950,000 00
Total -----	\$32,091,000 00

To meet, in part, the total expenditures, made or estimated, applicant reports amounts due on September 30, 1927, on account of the unpaid balances on stock subscription, of \$3,724,561.64. It appears that of the stock, of all classes, heretofore authorized, there remained about \$10,-000,000 unsold, so that the moneys which the company will collect from stock subscribers, or which it may realize from the sale of the stock heretofore authorized to be issued and sold, but not yet sold, will not be sufficient to finance the expenditures referred to herein. The issue of the additional \$10,000,000 of stock herein applied for seems necessary and the order following accordingly will permit such issue. Such order, however, will allow the payment of not exceeding fifty cents per share for commissions and other expenses incident to the sale of the stock.

ORDER.

Southern California Edison Company having applied to the Railroad Commission for permission to issue and sell \$10,000,000 of stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required for the purposes herein specified and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Southern California Edison Company be and it hereby is authorized to issue and sell, on or before December 31, 1928, at not less than \$23.50 a share, 400,000 shares of its 5½ per cent preferred stock, series "C," of the aggregate par value of \$10,000,000.

It is hereby further ordered, that Southern California Edison Company be and it hereby is authorized to use an amount of the proceeds not exceeding fifty cents per share of stock sold to pay commissions and expenses incident to the sale of such stock, and to consolidate the remaining proceeds and such portion of the fifty cents not needed for commissions and expenses incident to the sale of stock, with the proceeds received, or to be received, from the sale of stock heretofore authorized to be issued, and to use such consolidated proceeds to finance in part such cost of the extensions, additions and betterments referred to in Exhibit "G" in Application No. 13602 and in Exhibits "6" and "7" filed in this proceeding as is properly chargeable to fixed capital accounts under the uniform system of accounts prescribed by the Railroad Commission.

It is hereby further ordered, that the authority herein granted shall become effective upon the date hereof, and that applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds, as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this twenty-first day of November, 1927.

DECISION No. 19101.

IN THE MATTER OF THE APPLICATION OF PACIFIC GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA AUTHORIZING APPLICANT TO ISSUE SHARES OF ITS PREFERRED CAPITAL STOCK, IN THE MANNER AND TO THE AMOUNT AND FOR THE PURPOSES IN THIS APPLICATION SET FORTH.

Application No. 14208.

Decided December 5, 1927.

SECURITY ISSUES—PURCHASE OF BY ANOTHER UTILITY.—Pacific Gas and Electric Company authorized to acquire 20,774 shares of 7 per cent preferred stock of Coast Valleys Gas and Electric Company, 46,250 shares of the 7 per cent preferred stock of Western States Gas and Electric Company of California, and 17,874 shares of 7 per cent preferred stock of Western States Gas and Electric Company of Delaware, and to issue not exceeding 339,592 shares of its first preferred capital stock of the aggregate par value of \$8,489,800 in exchange therefor.

SECURITY ISSUES—IN GENERAL—PURCHASE OF BY ANOTHER UTILITY.—In an application of one utility to acquire by exchange outstanding stock of other utilities any action that the Commission or the applicant may take in the matter is not compulsory, and any holders of stock not desiring to accept the offer of exchange may continue the ownership of stock now held by them.

W. B. Bosley and C. P. Cutten, for Applicant.

BY THE COMMISSION.

OPINION.

In this application the Pacific Gas and Electric Company asks the Railroad Commission to enter its order authorizing applicant to acquire and to hold all or any part of 20,774 shares (\$2,077,400 par value) of the 7 per cent preferred stock of Coast Valleys Gas and Electric Company; all or any part of the 46,250 shares (\$4,625,000 par value) of the 7 per cent preferred stock of Western States Gas and Electric Company (of California) and all or any part of 17,874 shares (\$1,787,400 par value) of the 7 per cent preferred stock of Western States Gas and Electric Company of Delaware. The Pacific Gas and Electric Company also asks permission to issue not exceeding 339,592 shares of its first preferred 6 per cent capital stock of the par value of \$25 per share and of the aggregate par value of \$8,489,800 and to exchange all or any part of said shares of said applicant's stock for the shares of the preferred stock of Coast Valleys Gas and Electric Company, Western States Gas and Electric Company (of California) and Western States Gas and Electric Company of Delaware, in the proportion of four shares of applicant's preferred stock of the par value of \$25 for each share of said preferred stock of said corporations of the par value of \$100.

Pacific Gas and Electric Company reports that under Decision No. 18567, dated June 30, 1927, in Application No. 13805 it has acquired and now owns a majority of all the subscribed and issued capital stock of Coast Valleys Gas and Electric Company, of Western States Gas and Electric Company (of California) and of Western States Gas and Electric Company of Delaware and that ever since on or about July 7, 1927, through its officers and agents, has been and is now managing and conducting the business and affairs of said companies. It is of record that in the management and conduct of the business and affairs of said corporations it has been necessary to maintain their individual

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porate entities and structures. In the interests of uniformity and standards of service and further economy of financing and of operation, applicant proposes in due course to acquire the properties of said Coast Valleys Gas and Electric Company; of the Western States Gas and Electric Company, and to effect the dissolution of said two companies, as well as of Western States Gas and Electric Company of California.

The acquisition of the preferred stock is a means to that end. Applicant proposes to offer to the holders of 7 per cent stock of Western States Gas and Electric Company (of California), of Western States Gas and Electric Company of Delaware and of Coast Valleys Gas and Electric Company, its 6 per cent cumulative preferred stock, on the basis of four shares of such stock (aggregate par value \$100) for one share, par value of \$100, of the 7 per cent preferred stock of the corporations mentioned. The testimony shows that the market value of the 6 per cent preferred stock of Pacific Gas and Electric Company is about equal to the market value of the 7 per cent preferred stock of the companies mentioned. The several companies have outstanding or subscribed for 7 per cent cumulative preferred stock in the amount of \$89,800 par value, segregated into \$2,077,400 of Coast Valleys Gas and Electric Company, \$4,625,000 Western States Gas and Electric Company (of California) and \$1,787,400 Western States Gas and Electric Company of Delaware. It should be said in connection with this application that any action that this Commission may take or any action on which the Pacific Gas and Electric Company may take in the future is not compulsory. It was emphasized by representatives of the Pacific Gas and Electric Company that they merely proposed to offer to stockholders of the different companies stock of the Pacific Gas and Electric Company in exchange for their present holdings on a par for par basis. Any of the holders who do not desire to accept such offer may continue the ownership of the stock which they now hold until such time as the stock is called for redemption or the properties of the several companies sold and their assets distributed.

ORDER.

Pacific Gas and Electric Company having asked permission to acquire the stocks referred to in the opinion which precedes this order, to issue not exceeding 339,592 shares of its 6 per cent cumulative preferred stock of the par value of \$8,489,800, a public hearing having been held before Examiner Fankhauser and the Commission being of opinion that the money, property or labor to be procured or paid for the issue of the 339,592 shares of stock of Pacific Gas and Electric Company is reasonably required by such company, and that the expenditures herein authorized are not in whole or in part reasonably

chargeable to operating expenses or to income, and that this application should be granted, as herein provided; therefore,

It is hereby ordered, as follows:

1. Pacific Gas and Electric Company may acquire from the holders thereof and hold all or any part of the 20,774 shares of the 7 per cent preferred stock of Coast Valleys Gas and Electric Company now issued or subscribed for; all or any part of the 46,250 shares of the 7 per cent preferred stock of Western States Gas and Electric Company (of California) not owned by Western States Gas and Electric Company of Delaware, and all or any part of the 17,874 shares of the 7 per cent preferred stock of Western States Gas and Electric Company of Delaware not hitherto acquired by Pacific Gas and Electric Company.

2. Pacific Gas and Electric Company may issue on or before June 30, 1928, not exceeding 339,592 shares of its first preferred capital stock of the par value of \$25 per share and of the aggregate par value of \$8,489,800 and exchange all or any part of said shares of said stock for the shares of the preferred stock of said Coast Valleys Gas and Electric Company, Western States Gas and Electric Company (of California) and Western States Gas and Electric Company of Delaware mentioned above, in the proportion of four shares of Pacific Gas and Electric Company's preferred capital stock of the par value of \$25 for each share of said preferred stock of said corporations of the par value of \$100.

3. The authority herein granted will become effective upon the date hereof.

4. Pacific Gas and Electric Company shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this fifth day of December, 1927.

DECISION No. 19104.

IN THE MATTER OF THE APPLICATION OF GILROY TELEPHONE COMPANY TO ESTABLISH FILING WITH THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA OF CERTAIN EXCHANGE SERVICE RATES AND FOR AUTHORITY TO MAKE SAID RATES EFFECTIVE FORTHWITH UPON SAID FILING.

Application No. 14199.

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Decided December 6, 1927.

ES—PARTICULAR UTILITIES—TELEPHONE.—Gilroy Telephone Company authorized to make effective a rate of five cents for each exchange message from public pay stations and charges for supplemental equipment.

ES—SCHEDULES—FILING AND EFFECTIVE DATE—IN GENERAL.—Authorization granted to a telephone utility to make legally effective rates charged and collected for several years where, through lack of understanding or inadvertence, a former manager of the utility had failed to file such rates with the Commission.

F. Hills and K. L. McAtee, for Applicant.

THE COMMISSION.

OPINION.

In this application Gilroy Telephone Company, a corporation, seeks authority to file and make effective a charge of five cents for each exchange message made from its public pay stations and charges for supplemental equipment.

A public hearing in this proceeding was held by Examiner Gannon in San Francisco on November 29, 1927, at which place and time the matter was submitted for decision.

Testimony by witnesses for applicant showed that Gilroy Telephone Company for several years past has been charging and collecting the rates which it desires to make legally effective by an order of the Railroad Commission, and that a former manager of the utility, through lack of understanding of the necessities of the matter or through inadvertence, had failed to file such rates with the Railroad Commission.

The rendering of public pay station service by applicant is to the advantage of the customers of Gilroy Telephone Company and, since the rate of five cents per message desired is that generally in effect in California, the rate schedule as requested should be authorized. Charges for Supplemental Equipment, as set forth in Exhibit "A" attached to application, are similar to those which have been authorized heretofore by the Railroad Commission for similar equipment and may be filed and made effective.

No objection to the granting of the application was made at the hearing.

ORDER.

Gilroy Telephone Company, a corporation, having made application to the Railroad Commission for authority to file and make effective a rate of five cents for each exchange message from public pay stations and charges for supplemental equipment, as shown on Exhibit "A" attached to the application, a public hearing therein having been held, the matter having been submitted and now being ready for decision; *it is hereby ordered*, that Gilroy Telephone Company be and it is hereby authorized to file on or before December 27, 1927, a rate of five cents for each exchange message from public pay stations, and the rates

for supplemental equipment as shown in Exhibit "A" attached to the application, effective January 1, 1928.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this sixth day of December, 1927.

DECISION No. 19105.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES SYSTEM, A CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL STOCK OF THE PAR VALUE OF THREE HUNDRED AND TWENTY-FIVE THOUSAND DOLLARS.

Application No. 14121.

IN THE MATTER OF THE APPLICATION OF PICKWICK STAGES SYSTEM, A CORPORATION, FOR AN ORDER PERMITTING IT TO ISSUE THREE HUNDRED THOUSAND DOLLARS OF EQUIPMENT TRUST CERTIFICATES.

Application No. 14122.

Decided December 6, 1927.

Warren E. Libby, for Applicant.

BY THE COMMISSION.

OPINION.

In the above entitled matters Pickwick Stages System, a corporation, asks the Railroad Commission to make an order authorizing it to issue \$325,000 of common stock at par and \$300,000 of 6½ per cent equipment trust certificates at 95 to finance the cost of additional equipment.

A public hearing on the two applications was held before Examiner Fankhauser on October 28th, at which time they were consolidated for the purpose of receiving evidence and for decision.

As of August 31, 1927, Pickwick Stages System reports outstanding \$1,759,250 of common stock and \$770,000 of equipment trust certificates. The assets and liabilities of the same date are shown in Exhibit "A" as follows:

<i>Assets.</i>		
Land		\$24,699 17
Buildings and equipment.....	\$2,599,848 72	
Less depreciation	430,668 15	
Net		2,169,180 57
Franchises		510,720 29
Current assets		494,396 02
Other assets		36,098 34
Deferred charges		107,348 78
Discount on capital stock.....		5,844 00
Total assets		\$3,348,287 17

Liabilities

Stock outstanding	\$1,759,250 00
Equipment trust certificates	770,000 00
Cost of furniture and equipment payable in installments	195,207 82
Accrued federal income tax—1926	10,831 66
Reserve for motor	116,293 57
Current liabilities	257,802 07
Surplus	45,182 46
Profit and loss—1927	193,719 59
Total liabilities	\$3,348,287 17

The company in these two applications asks permission to issue stock and equipment trust certificates to acquire the use of additional equipment which it reports will cost it \$605,000. This equipment consists of the following:

10 26-passenger parlor sedan intercity type stages at \$12,500 each	\$125,000 00
10 27-passenger aisle parlor sedan intercity type stages at \$13,500 each	135,000 00
16 27-passenger aisle parlor sedan intercity type stages equipped with lavatories and toilets at \$15,000 each	240,000 00
6 28-passenger observation parlor buffet semidouble deck stages at \$17,500 each	105,000 00
Total	\$605,000 00

A portion of the proposed cost of the equipment applicant proposes to obtain through assuming the obligations referred to in the equipment trust agreement and lease of automobile stage equipment filed in Application No. 14122 as Exhibits "B" and "C." This agreement provides for the issue of \$300,000 equipment trust certificates bearing interest at the rate of 6½ per cent per annum and payable on the following dates in the following amounts:

October 15, 1928	\$20,000 00
October 15, 1929	40,000 00
October 15, 1930	60,000 00
October 15, 1931	60,000 00
October 15, 1932	60,000 00
October 15, 1933	60,000 00
Total	\$300,000 00

Under the provisions of Exhibits "B" and "C" the Pickwick Stages System undertakes to lease equipment referred to herein and pay as rental for the use of such equipment an amount sufficient to pay the equipment trust certificates, to pay interest thereon and maintain the equipment and pay any other expenses in connection with the operation of said equipment. Assuming that the equipment trust certificates are sold at 95, the company would realize \$285,000. The balance of the purchasing price is to be secured through the issue of common stock at par, which will be purchased by the Pickwick Corporation.

The testimony shows that the equipment which is to be acquired and made available for the Pickwick Stages System and which will finally be paid by the Pickwick Stages System is being constructed by the

Pickwick Corporation, which owns all of the outstanding common stock of Pickwick Stages System. It appears that the Pickwick Corporation is selling the equipment at a profit ranging as high as 25 per cent.

We feel that the amounts which Pickwick Stages System, a public utility, proposes to pay for the equipment are excessive and that such excessive prices are due in part at least to the practice of having the parent company construct the equipment. It occurs to us that the operations of Pickwick Stages System have reached such a magnitude as should enable it to acquire or construct its equipment on a more favorable basis than it is acquiring the same from Pickwick Corporation. The situation presented here is in its essentials no different from the practice, long since rejected by the Commission, of permitting a construction company to profit at the expense of a public utility when the construction company controls the public utility or is owned or controlled by the same interests which own or control the utility.

The order herein, accordingly, will be of a preliminary nature and, while authorizing the issue of the stock and certificates in the amounts applied for, will provide that the proceeds received from the sale of such securities be placed in a separate bank account and withdrawn by applicant only upon receiving supplemental authority from this Commission to do so. To obtain such supplemental authority it will be necessary for applicant to file with the Commission, when it is desired to withdraw proceeds, a supplemental petition containing a certified statement showing in detail the actual cost of constructing the equipment to be financed with such proceeds and justify the cost therein shown.

ORDER.

Pickwick Stages System having applied to the Railroad Commission for an order authorizing the issue of stock and equipment trust certificates, referred to in the foregoing opinion, a public hearing having been held and the Railroad Commission being of the opinion that the request should be granted as herein provided, and not otherwise, and that the issue of stock and certificates is reasonably required by applicant;

It is hereby ordered, that Pickwick Stages System be and it hereby is authorized to issue and sell, at not less than par, \$325,000 of its common capital stock and to execute and enter into an equipment trust agreement and a lease agreement substantially in the same form as the agreements filed with Application No. 14122, as amended by the company in its letter of November 1, 1927, and to assume or guarantee the payment of not exceeding \$300,000 of 6½ per cent serial equipment trust certificates payable on or before October 15, 1933, the issue and sale of which certificates, at not less than 95 per cent of face value plus accrued interest, is hereby authorized.

It is hereby further ordered, that Pickwick Stages System shall deposit the proceeds from the sale of the \$325,000 of stock and the 300,000 of certificates in a special bank account, and use such proceeds only upon being authorized to do so by supplemental orders in these proceedings, for the purpose of financing the construction cost of the equipment referred to in the foregoing opinion, or for such other purposes as the Commission might authorize.

The authority herein granted is subject to the following conditions :

1. To obtain supplemental orders authorizing the use of proceeds from the sale of the stock and certificates applicant shall first file with the Commission supplemental petitions containing certified statements showing in detail the actual cost of constructing the equipment to be financed through the use of said proceeds, and justify said cost.

2. The authority herein granted to execute an equipment trust agreement and a lease agreement is for the purpose of this proceeding only and is granted only in so far as this Commission has jurisdiction under the terms of the Public Utilities Act, and is not intended as an approval of said agreements as to such other legal requirements to which said agreements might be subject.

3. Applicant shall keep such record of the issue of the stock and certificates herein authorized as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

4. The authority herein granted to issue stock shall become effective upon the date hereof. The authority herein granted to issue certificates shall become effective only when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$300, and the authority to use proceeds from the sale of stock and certificates shall become effective only when hereafter authorized in supplemental orders.

5. Under the authority herein granted no stock or certificates may be issued after June 30, 1928.

6. Within thirty days after the execution of the agreements referred to herein Pickwick Stages System shall file two certified copies thereof.

Dated at San Francisco, California, this sixth day of December, 1927.

DECISION No. 19106.

IN THE MATTER OF THE APPLICATION OF THE CITY OF BURBANK,
A MUNICIPAL CORPORATION, FOR PERMISSION TO INSTALL A
GRADE CROSSING OVER THE TRACKS OF THE SOUTHERN
PACIFIC RAILROAD COMPANY, AT VICTORY PLACE, IN THE CITY
OF BURBANK, CALIFORNIA.

Application No. 13920.

Decided December 8, 1927.

CROSSINGS—GRADE CROSSINGS—CONSTRUCTION.—Application of city of Burbank to install a crossing at grade over the tracks of the Southern Pacific Company at Victory place denied.

CROSSINGS—GRADE CROSSINGS—CONSTRUCTION OF.—A temporary grade crossing of a railroad by a potentially important highway will not be authorized where the evidence shows that when such highway is opened across the railroad the grades should be separated.

James H. Mitchell, City Attorney, for Applicant.

R. E. Wedekind, for Southern Pacific Company, Protestant.

John R. Berryman, Jr., for Los Angeles County Grade Crossing Committee, Protestant.

BY THE COMMISSION.

OPINION.

The city of Burbank, a municipal corporation, has petitioned the Railroad Commission for an order authorizing the installation and maintenance of a crossing at Victory place at grade across Southern Pacific Company's coast line.

Public hearings on this application were conducted by Examiner Handford at Burbank, the matter was duly submitted and is now ready for decision.

The matter of a grade crossing at this location has heretofore received the attention of the Commission in Application No. 12434 for a grade crossing of Victory place with Southern Pacific Company's coast line, at identically the same location as the one herein applied for, such petition having been denied by Decision No. 16760, dated May 25, 1926. A description of the general physical characteristics surrounding the crossing and the adjacent territory is set forth in the opinion contained in said Decision No. 16760 and need not be repeated here. In such opinion the Commission announced:

From the evidence, it appears that it would be unwise to establish a grade crossing of such a potentially important highway over an important high-speed railroad, when it is so evident that the traffic on this street, when opened, will justify the expense of establishing a grade separation. This feature, considered in conjunction with the fact that the construction of a temporary grade crossing soon to be replaced with a grade separation, involves an unnecessary expenditure of money, and leads to the conclusion that this application should be denied. However, it appears proper to state, at this time, that I would recommend the approval of an application for a grade separation at this location, if such an application were presented to the Commission for consideration.

The record in the instant application shows that the proposed crossing, if constructed, will form a link in a very important highway artery, a portion of which would be the new Riverside drive, which, it appears, will be opened for traffic in about two months and by such opening will accommodate through traffic from the center of Los Angeles to San Fernando Valley. That Victory place is potentially an important highway artery is evidenced not only by witnesses from Burbank but

by officials of the city of Los Angeles and Los Angeles County. was estimated that Victory place would attract not less than 50 per cent of the traffic now crossing the Southern Pacific Company's valley at the so-called "Turkey crossing."

The railroad involved is the Southern Pacific Company's single track coast line over which twelve passenger and fourteen freight train movements are normally operated per day. Although the proposed crossing is located some 900 feet from the junction of the coast and main lines, which junction is protected by an interlocking plant, the road company's witness testified that many of these trains travel at a rate of from thirty to forty miles per hour at the crossing.

While the view at the proposed crossing is practically unobstructed at this time, it is doubtful if this condition would prevail for any length of time if the crossing were opened, as a result of development along the highway; also, the line of Victory place intersects the track at an acute angle of approximately 47 degrees, thereby increasing the hazard compared to a right angle crossing.

The record shows that the major physical difference between the conditions now prevailing, with respect to this crossing, and those existing at the time of hearing of the previous application, is that the plans for building connecting highways constituting a major traffic outlet from Los Angeles to the northwest, of which Victory place usually forms a part, are further matured; in fact, such project is now assured.

The city of Burbank has recently paved Victory place on each side of the railroad up to the proposed crossing on grades which contemplate a grade crossing with the track, notwithstanding the fact that the Commission has heretofore denied such a grade crossing. There has been some development in the vicinity of the proposed crossing in the way of property subdivision and the construction of highways.

The granting of this application is opposed by Southern Pacific Company and the Los Angeles County Grade Crossing Committee, both organizations admitting the necessity for a crossing of the railroad at this location but contending that the grades of this potentially important highway and the railroad should be separated.

The applicant urges that a temporary crossing be authorized, to be replaced with a grade separation at a later date when the city is better able to finance its portion of the cost of effecting such an improvement. However, no definite plan was presented whereby the Commission could be assured that the necessary funds would be available in the reasonably near future to care for the financing of a grade separation at this location.

The estimated cost of a grade separation at this location is shown in the Commission's exhibit to be \$130,541. The physical conditions at

this location are favorable for a grade separation, the track being constructed on a fill about five feet above the natural ground level, and there are no improvements, in the way of buildings, to interfere with such a plan.

The record shows that a grade crossing at this location, including two automatic flagmen, will cost approximately \$10,000, which expenditure would be a total loss if a grade crossing were to be constructed and then replaced with a grade separation within a short period of time.

After full consideration of all the evidence adduced in this proceeding we are of the opinion and hereby conclude that it would not be in accord with public interest to establish a temporary grade crossing at this location, as the evidence clearly indicates that when this highway is opened across the railroad the grades should be separated. To delay the installation of such an improvement will not only materially increase the ultimate cost thereof, due both to the loss of the money spent for a temporary grade crossing as well as an increase in property damage due to development in the immediate vicinity, but the establishment of a temporary grade crossing which would be used as a main highway by heavy vehicular travel would create a serious hazard of accident to the users of such highway.

ORDER.

Public hearings having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the conclusions and statements of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that this application be and the same hereby is denied.

Dated at San Francisco, California, this eighth day of December, 1927.

DECISION No. 19107.

IN THE MATTER OF THE APPLICATION OF HOME TELEPHONE COMPANY OF COVINA, A CORPORATION, FOR AN ORDER AUTHORIZING IT TO PURCHASE THE FOLLOWS TOLL LINE AND AUTHORIZING THE FOLLOWS TOLL LINE TO RETIRE FROM THE TELEPHONE BUSINESS, AUTHORIZING THE HOME TELEPHONE COMPANY OF COVINA TO ENTER AND RENDER TELEPHONE SERVICE IN THE TERRITORY INVOLVED, AND ESTABLISHING RATES THEREFOR.

Application No. 13951.

Decided December 8, 1927.

CONSOLIDATION, MERGER AND SALE—TOLL LINE—RATES.—Home Telephone Company of Covina authorized to purchase the Follows Toll Line, serving San Gabriel Canyon, to consolidate the same with its present property and to establish toll rates.

RATES—TELEPHONE—KINDS AND CLASSES—TOLL SERVICE.—Request for a guarantee of fifty messages per month per station on a toll line was granted, with the provision that traffic records of all originating and terminating messages should be kept so that data available for a determination of the reasonableness of the rates could be obtained.

loyd Wright and *C. B. Shaw*, for Applicant.

loyd Wright, for Follows Toll Line.

loyd W. Dowd, for County of Los Angeles Flood Control District, interested party.

George H. Cecil, for United States Forestry Service, interested party.

Marquerite Holdzkom, for Los Angeles Tuberculosis Association, interested party.

BY THE COMMISSION.

OPINION.

Home Telephone Company of Covina, hereinafter called the Covina Company, makes application to the Railroad Commission for authority to purchase from Jennie H. Follows the toll line in San Gabriel Canyon operated under the fictitious name and title "Follows Toll Line." Jennie H. Follows, sole owner of that line, petitions the Commission for authority to sell the Follows Toll Line to the Home Telephone Company of Covina. The Home Telephone Company of Covina makes further application for authority to place certain toll rates in effect in the territory now served by Follows Toll Line.

The Follows Toll Line has for many years rendered service in San Gabriel Canyon and was originally built to give service between several recreation camps, and not as a public utility. This Commission in Decision No. 1895 of October 21, 1914, after hearing in Case No. 678, *Gold Brook Camp vs. R. C. Pollard*, held that the line was a public utility and fixed a rate of \$50 per year for service on it. A rehearing in that case was denied in this Commission's Decision No. 1922 of November 6, 1914. The matter went to the California Supreme Court and the Commission was upheld (*California Reports*, Vol. 172, page 61, *Camp Rincon vs. Eshleman*).

A public hearing was held in this matter at Covina, before Examiner Williams, on September 27, 1927.

Witness for the Covina Company stated that applicant had agreed to pay Jennie H. Follows \$500 for the Follows Toll Line, and that if the purchase were authorized the line would be consolidated with present property as part of the system of the Home Telephone Company of Covina. Applicant offered testimony to the effect that the present single circuit of the Follows Toll Line would be replaced with at least two new circuits built in San Gabriel Canyon, and that the purchase price for the Follows Toll Line was for good will and right of way, rather than for the physical property.

No objection was offered to the purchase of the Follows Toll Line by the Covina Company, but on the other hand interested parties expressed the belief that better service would be available. It appears that the public will be better served by the transfer of this property to the Covina Company and the order following will so provide.

Applicant submitted a schedule of rates which it desires to make effective for toll service in San Gabriel Canyon, and which is similar to those generally in effect in the State of California, with the statement that no station on the present line is over twelve miles distant from Covina, that all stations on the line are within twelve miles of each other, and that the maximum station-to-station rate between any two stations on the line, or between any station and Covina, would be ten cents.

The rates proposed by applicant in this proceeding will result in the elimination of the present \$50 per year charge for each station, but will not change the present rate of ten cents per message to Covina from existing stations. The proposed rates, however, will provide for a charge of ten cents on station-to-station messages between stations in the San Gabriel Canyon area, which heretofore has not been in effect. The proposed rates on station-to-station calls to points beyond Covina will result in a lesser charge in many cases, as the proposed rates provide a "through" rate between San Gabriel Canyon stations and points beyond Covina, and on such calls the ten cent rate to Covina will not apply.

The rates proposed by the company should be made effective as requested as they will result in lower charges to the public than have resulted under the rates which they will supersede.

The company should set up in its files each month records showing its investment in its San Gabriel Canyon lines, with revenues and expenses appertaining thereto. Traffic records of all originating and terminating messages should be kept so that data available for a determination of the reasonableness of the rates ordered herein can be made.

A provision of the proposed rates requires a guarantee of 50 toll messages per month from each toll station on the San Gabriel Canyon lines and amounts to a minimum money guarantee of \$5 per month from each station. Such a provision would, in some cases, result in a guarantee of more than \$5 per station per month when messages at a charge greater than ten cents are involved. This request for a guarantee of 50 messages per month per station will be granted, with the provision that records of traffic be maintained as stated above.

Applicant placed in evidence an exhibit showing a detailed estimate of its cost for providing adequate toll line facilities in San Gabriel Canyon. The estimate amounted to \$15,691.24 for the placing of five

CALIFORNIA RAILROAD COMMISSION DECISIONS.

uits, three of which are for the sole use of the county of Los Angeles Flood Control District in the building of the \$25,000,000 Gabriel River Dam. Applicant estimated that these three circuits would meet the needs of the flood control district during the five- to ten-year period during which the dam will be under construction, during which time it is estimated that there will be from 2000 to 3000 persons located at the dam site. Two of the circuits covered by the estimate are for service to present subscribers on the Follows Toll Line. Applicant's testimony was purported to show that this estimate was for the routing of all the proposed new San Gabriel Canyon lines along the flood control district's railroad right of way up the dam site in order to meet certain special needs of the flood control district. It was pointed out that adequate facilities could be placed for less than the amount estimated if it were not necessary to meet this special need of the flood control district.

ORDER.

The Home Telephone Company of Covina having applied to the Railroad Commission for authority to purchase the Follows Toll Line, Mrs. Jennie H. Follows, sole owner of that line, having petitioned the Commission for authority to sell; the Home Telephone Company of Covina having applied for authority to place in effect certain toll charges on the territory of the San Gabriel Canyon now served by the Follows Toll Line, a public hearing having been held, the matter having been previously submitted and now being ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that public convenience and necessity require the Covina Company to purchase the Follows Toll Line and consolidate the same with its present property. It is further found as a fact that the toll rates applied for by the Home Telephone Company of Covina should be authorized and made effective.

Reversing its order on the foregoing findings of fact and on such other findings of fact as are set forth in the opinion preceding this order;

It is hereby ordered, that Home Telephone Company of Covina be authorized and it is hereby authorized to purchase and Mrs. Jennie H. Follows and she is authorized to sell and transfer to Home Telephone Company of Covina, on or before February 1, 1928, the San Gabriel Canyon toll line properties known under the fictitious name of Follows Toll Line, provided:

1) Home Telephone Company of Covina shall file a certified copy of a deed or other instrument of transfer, by which it secures title to the Follows Toll Line, with the Railroad Commission within thirty days after the date on which the same is executed.

(2) The consideration herein named, at which these public utility properties are to be transferred, shall not be considered as a measure of value of said properties for any purpose other than the transfer herein authorized.

It is hereby further ordered, that Follows Toll Line be and it is hereby authorized to discontinue the furnishing of telephone service in the territory now served by it, on and after the date it transfers its operative telephone properties, referred to herein, to Home Telephone Company of Covina and to withdraw, as of that date, its rates and tariffs for service.

It is hereby further ordered, that Home Telephone Company of Covina, after proper showing before the Railroad Commission that it has constructed and made ready for service at least two new toll lines from Covina into San Gabriel Canyon to replace the present Follows Toll Line and upon supplemental order from the Railroad Commission, may file and make effective the rates for toll service as set forth in Exhibit "A" attached hereto.

It is hereby further ordered, that Home Telephone Company of Covina shall complete and have ready for service not less than two new toll lines from Covina into San Gabriel Canyon to the proposed dam site near the junction of the east and west branches of the San Gabriel River on or before April 1, 1928.

It is hereby further ordered, that following the making effective of the rates set forth in Exhibit "A" hereto attached the Home Telephone Company of Covina shall set up in its files each month for a two-year period records showing its investment in its San Gabriel Canyon lines with revenues and expenses appertaining thereto and shall keep traffic records of all originating and terminating messages from and to each station on such lines.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this eighth day of December, 1927.

EXHIBIT "A."

TOLL RATES.

TOLL SERVICE—SCHEDULE B-1.

General Service.

Applicable to station-to-station, person-to-person and appointment and messenger toll service charges between any two toll stations or exchanges:

Rate.

(1) Station-to-station service:

(a) The following initial period rates are applicable to station-to-station toll messages where the distance between exchanges or toll points does not exceed twenty-four miles by direct air-line measurement:

<i>For distance more than</i>	<i>But not more than</i>	<i>Initial rate</i>
0 miles	12 miles	\$0 10
12 miles	18 miles	15
18 miles	24 miles	20

(b) Initial period and overtime period:

<i>Where initial rate is</i>	<i>Initial period is</i>	<i>Overtime period is</i>
\$0 10	5 minutes	3 minutes
15	5 minutes	2 minutes
20	5 minutes	2 minutes

(c) Overtime rate:

Where initial rate is \$0 10 the overtime rate is \$0 05.
 Where initial rate is \$0 15 the overtime rate is \$0 05.
 Where initial rate is \$0 20 the overtime rate is \$0 05.

(2) Person-to-person, appointment and messenger rate and report charge:

Rate for initial period of three minutes or less:

<i>Station-to- station rate</i>	<i>Corresponding completed person-to- person rate</i>	<i>Corresponding completed appointment and messenger rate</i>	<i>Corresponding report charge</i>
\$0 10	\$0 15	\$0 20	\$0 05
15	20	25	10
20	25	30	10

Rates for periods in excess of the initial three-minute period:

<i>Where the initial rate is</i>	<i>The overtime period is</i>	<i>The overtime rate is</i>
\$0 15	1 minute	\$0 05
20	1 minute	05
25	1 minute	05
30	1 minute	10

(3) Night rates: Station-to-station night rates are the same as the station-to-station day rates.

(4) Rates to points on other companies' lines: Rates for any of the classes of toll service specified herein between toll points on the line of the Home Telephone Company of Covina and toll points on the lines of the United States Long Distance Telephone and Telegraph Company and The Pacific Telephone and Telegraph Company and connecting companies are the through rates quoted by the United States Long Distance Telephone and Telegraph Company and The Pacific Telephone and Telegraph Company.

(5) Minimum requirement per toll station for service under rates (1), (2),

(3) and/or (4) above will be a guarantee of fifty (50) toll messages per month. When the number of toll messages originated from any toll station in a monthly billing period is less than 50, the total toll charges against the station will be the toll charges actually accrued plus an amount obtained by computing the charges at 10 cents each on a number of messages equal to the difference between the number of originated messages and the minimum requirement.

DECISION No. 19108.

IN THE MATTER OF THE APPLICATION OF INTERSTATE TELEGRAPH COMPANY, A CORPORATION, FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE CONSTRUCTION OF AN EXTENSION TO ITS EXISTING SYSTEM, TO WIT: A TELEPHONE LINE FROM JUNE LAKE JUNCTION TO MONO LAKE INN, MONO COUNTY, CALIFORNIA, AND FOR AUTHORITY TO FILE AND MAKE EFFECTIVE RATES FOR TELEPHONE SERVICE OVER SAID LINE,

Application No. 14069.

Decided December 8, 1927.

SERVICE—TELEPHONE—EXTENSIONS.—Interstate Telegraph Company authorized to extend its toll lines from June Lake to Mono Inn on Mono Lake, to there connect with the lines of the Bridgeport Telephone and Telegraph Company, and to furnish toll telephone and telegraph service over such extension.

H. W. Coil, Attorney, and *H. A. Van Loon*, General Superintendent, for Applicant.
Charles L. Hayes, District Attorney, Mono County, for Mono County Board of Supervisors, interested party.

A. S. Bryant, for Bridgeport Telephone and Telegraph Company, interested party.
E. J. Phillips, for United Farmers Telephone and Telegraph Company of Gardner-ville, Nevada, Protestant.

BY THE COMMISSION.

OPINION.

In this proceeding the Interstate Telegraph Company, a corporation, makes application for authority to extend its system from June Lake to Mono Inn, located on Mono Lake, and to file and make effective for service over such extension toll telephone rates and telegraph rates similar to those now effective for service over its system.

A public hearing was held in this application before Examiner Williams in Bridgeport, California, on November 10, 1927, at which time the matter was submitted.

Testimony of H. A. Van Loon, for applicant, by Charles L. Hayes, district attorney of Mono County, and by A. S. Bryant, owner of the Bridgeport Telephone and Telegraph Company, favored the granting of the application, for the reason that the territory now served by the Bridgeport company then could have a telephone and telegraph outlet to Bishop and points beyond toward the south. The present round-about line haul north through Yerington and Reno, Nevada, thence through San Francisco, Los Angeles and San Bernardino to Bishop and points near thereto, is very unsatisfactory as to both service and rates.

The United Farmers Telephone and Telegraph Company of Gardnerville, Nevada, offered objection to the toll line extension as applied for on the basis that if the application were granted some present business to and from the lines of the Bridgeport Telephone and Telegraph Company, now routed over the lines of the United Farmers Company, would be routed over applicant's line. This objection was withdrawn by protestant when it was shown that better service and lower rates would be had by routing certain business over the proposed line, and that the routing of business from the lines of applicant company destined to points north beyond the Bridgeport company's territory would no doubt be to the advantage of the United Farmers company.

The evidence in this proceeding shows that public convenience and necessity require that this application should be granted and the order following will so provide.

ORDER.

Interstate Telegraph Company, a corporation, applicant in this proceeding, having applied to the Railroad Commission for an order authorizing it to extend its toll lines from their present terminus near June Lake to Mono Inn, on Mono Lake, and there to connect with the lines of the Bridgeport Telephone and Telegraph Company and to furnish toll telephone service and telegraph service over such extension, a public hearing having been held, the matter having been submitted and now being ready for decision:

The Railroad Commission of the State of California hereby finds as fact that the Interstate Telegraph Company should extend its toll lines from their present terminus near June Lake to Mono Inn, on Mono Lake, and there connect with the lines of the Bridgeport Telephone and Telegraph Company, and basing its order on the foregoing findings of fact;

It is hereby ordered, that Interstate Telegraph Company, on or before July 1, 1928, shall extend its toll lines from their present terminus near June Lake to Mono Inn, on Mono Lake, and at this latter point make switching arrangements for the interchange of business with the Bridgeport Telephone and Telegraph Company.

It is hereby further ordered, that Interstate Telegraph Company shall charge and collect rates for toll telephone service and telegraph service over the extension of its system authorized herein, which shall be based on its toll telephone and telegraph rate structure at present in use on its system and which shall be equal to rates for similar service under similar conditions elsewhere on its lines, after a showing to this commission that the construction necessary for the furnishing of toll telephone and telegraph service has been completed and upon the issuance of a supplemental order by the Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this eighth day of December, 1927.

DECISION No. 19109.

IN THE MATTER OF THE APPLICATION OF GEORGE S. JONES COMPANY, A CORPORATION, TO DISCONTINUE SERVICE NOW BEING RENDERED BY THE APPLICANT BETWEEN PETALUMA AND BOYES SPRINGS FROM THE FIRST DAY OF OCTOBER TO THE FIRST DAY OF APRIL EACH YEAR.

Application No. 14192.

Decided December 8, 1927.

UTOMOTIVE TRANSPORTATION—SEASONAL OPERATION.—Geo. S. Jones Company authorized to discontinue operation of its auto stage line between Petaluma and Boyes Springs and intermediate points during the period October 1st to March 31st of each year.

George S. Jones, for Applicant.

Erman Schieck, an interested party.

BY THE COMMISSION.

OPINION.

George S. Jones Company, a corporation, has petitioned the Railroad Commission for an order authorizing the discontinuance of auto stage service between Petaluma and Boyes Springs and intermediate points, during the months of October to March, inclusive, of each year.

A public hearing on this application was conducted by Examiner Handford at Petaluma, the matter was duly submitted and is now ready for decision.

Applicant alleges, as justification for the granting of the application, that (1) the principal traffic handled is during the summer months in the transportation of passengers to summer resorts in the Sonoma Valley; (2) that the operation of the line during the winter months of the past three years has been conducted at a loss; (3) that the revenue derived from the operation during the summer months is insufficient to care for the losses sustained during the winter season; and (4) that the granting of the application will enable applicant to give a better service during the summer months, will avoid the necessity of a complete abandonment of service with resultant inconvenience to the public and loss of the amount invested by applicant.

Geo. S. Jones, a witness for applicant, testified as to the limited passenger traffic available during the winter months; that the receipts for the period November 1, 1926, to April 1, 1927, inclusive, were less than \$200; that the receipts for the month of October, 1927, were but \$86.05; and that while he considered the operation during the summer months to be profitable, such profit was not sufficient to enable operation during the winter months during which discontinuance of service was sought.

The record of receipts and expenses, as shown by the annual reports of applicant on file with this Commission, shows the following results:

	1924	1925	1926
Receipts -----	\$1,407 85	\$1,254 80	\$1,079 55
Expenses -----	2,184 55	2,491 04	2,432 83
Deficit -----	\$776 70	\$1,236 24	\$1,353 28

Although notice of the hearing on this application was sent to all parties who might be interested, there was no protest against the granting of the application.

From the record herein it is apparent that continued service during the entire year can not be given indefinitely with the constantly increasing deficits from operation, and we hereby find as a fact that the relief herein sought by applicant is justified.

ORDER.

A public hearing having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact as appearing in the opinion which precedes this order;

It is hereby ordered, that George S. Jones Company, a corporation, be and it hereby is authorized to discontinue the operation of its auto stage line as a common carrier of passengers between Petaluma and Boyes Springs and intermediate points during the period October 1st

March 31st of each year, such authority to continue until otherwise lered by this Commission.

Dated at San Francisco, California, this eighth day of December, 27.

DECISION No. 19110.

THE MATTER OF THE JOINT APPLICATION OF CITY OF KENNETT, A MUNICIPAL CORPORATION, AND KENNETT WATER COMPANY, A CORPORATION, FOR APPROVAL OF LEASE.

Application No. 14212.

Decided December 8, 1927.

ASE—WATER SYSTEM.—Indenture providing for lease of the public utility properties of the Kennett Water Company to the city of Kennett approved.

THE COMMISSION.

ORDER.

Application as entitled above having been made to this Commission for the approval of the lease of the public utility properties of Kennett Water Company to the city of Kennett, which joins in the plication, and it appearing to the Commission that this is not a matter which a public hearing is necessary and that the application should granted;

It is hereby ordered, that the indenture entered into as of October 1, 27, by and between Kennett Water Company, a corporation engaged the public utility business of supplying water for domestic, commercial and irrigation purposes to consumers in and in the vicinity of the y of Kennett, in the county of Shasta, and the city of Kennett, a municipal corporation, providing for the lease of the public utility operties of said company to said city, be and the same is hereby proved as set out in Exhibit "A" attached to the application herein d hereby made a part of this order by reference thereto.

The authority hereby granted shall become effective on the date reof.

Dated at San Francisco, California, this eighth day of December, 27.

DECISION No. 19112.

THE MATTER OF THE APPLICATION OF O. N. HIRSCH FOR ORDER FIXING WATER RATES.

Application No. 13949.

Decided December 10, 1927.

ATES—WATER UTILITY—INCREASE.—O. N. Hirsch, furnishing water for domestic purposes in and about Irvington, Alameda County, authorized to increase rates.

RETURN—REASONABLENESS OF—FACTORS CONSIDERED—DEVELOPMENT STAGE.—When a utility is still in a stage of development a full return upon the investment can not be granted without establishing a rate more than the service is reasonably worth and prohibitory to consumers.

VALUATION—PARTICULAR INTANGIBLES—DONATED PROPERTY.—Rates were established which would yield a return on the actual investment exclusive of donated properties where the utility was still in the development stage.

R. J. Darter, for Applicant.

BY THE COMMISSION.

OPINION.

O. N. Hirsch, the applicant herein, owns and operates a public utility water system under the fictitious name and style of Irvington Water Works, furnishing water for domestic purposes to the inhabitants of the unincorporated town of Irvington and adjacent territory in Alameda County.

The application alleges in effect that the flat rates at present charged are noncompensatory in that they are inadequate to produce sufficient revenue to return the necessary operating expenses of the system, including depreciation, and, in addition, yield a 7 per cent interest return on the total investment in the operative properties, which return petitioner believes he is reasonably entitled to receive. The Commission therefore is requested to establish a schedule of metered rates to be charged consumers which will yield a return of 7 per cent upon the investment, which applicant alleges will require a minimum monthly charge of \$3 per month per consumer.

A public hearing in this proceeding was held before Examiner Gannon at Irvington, after all interested parties were duly notified and given an opportunity to appear and be heard.

The present operative plant of this utility is the result of the recent consolidation of the distributing systems of two small public utilities which have been in operation for over twenty years supplying water in the town of Irvington and in the territory intervening between said town and Mission San Jose. One of these plants is known as the Irvington Water Works, or the Hirsch system, and the other as the Metzger system. A new and improved well source of supply has been acquired on the O. N. Hirsch ranch about one mile east of Irvington and now provides the water for the combined properties. The transfer of the Metzger system to O. N. Hirsch was authorized by the Commission's Decision No. 18034, dated March 1, 1927. The evidence shows that this water plant was donated to Mr. Hirsch, together with a cash sum of \$7,500, to be applied toward the cost of installing the new pumping equipment on the well at the Hirsch ranch and also a 10,000-gallon tank and certain pipe mains necessary to connect up the systems.

The present water supply is obtained by pumping from a 12-inch well, 408 feet deep, into a 10,000-gallon redwood stave tank elevated 40

at above the ground surface and from thence is delivered by gravity to the distribution system, consisting of approximately five miles of standard screw distribution mains ranging from 3-inch to 4-inch in diameter and a redwood stave storage and regulating tank of 20,000 gallons capacity. At present, there are 94 consumers on the combined system, of which 42 have been recently metered but continue to be charged at flat rates as there is no schedule of metered rates established. Applicant intends to meter progressively the whole system. The present rate for domestic service is \$1 per month on the Metzger system and \$1.50 on the other.

H. A. Noble, one of the Commission's hydraulic engineers, made a field investigation of this utility and at the hearing in this proceeding submitted a report which showed the total estimated original cost of the property at present devoted to the public use as \$17,230, the depreciation annuity, computed by the 5 per cent sinking fund method, as \$2, and estimated the sum of \$1,970 to be a reasonable allowance for annual maintenance and operating expenses for the immediate future. The field investigation disclosed that the book accounts of this utility have not been kept in an accurate or systematic manner and the records of expenditures incurred for maintenance and operation of the system and for new capital invested during the past years are fragmentary and very incomplete. This utility has never filed an annual report of its operations as required by the rules of this Commission.

Applicant submitted the estimate of \$19,556 as the "value of the investment" in the present operative properties. This amount included donated properties and was admitted by applicant to be approximately and not based upon either actual inventory or appraisal. Applicant estimated that the monthly maintenance and operation expenses for the plant will total \$225, or \$2,700 per year. This monthly total is made up of \$75 for electric power and \$150 for salary for one man and is apparently incomplete since no items are included for repairs, taxes, insurance or general office and incidental expenses. However, applicant accepted the appraisal and estimate of operating expenses as presented by the Commission's engineer and, such figures appearing reasonable, they will be used for the purpose of this proceeding. The revenues produced from the flat rates in effect for the year 1926 totaled \$1,584, which amount is inadequate to yield bare operating expenses and depreciation charges. Applicant is entitled therefore to a readjustment of the present rates.

The evidence shows that the estimated original cost of this system, shown above as \$17,230, includes property donations, which in the aggregate amount to approximately \$10,000. In addition to this, the utility serves a large territory sparsely settled and much of it in acreage.

During the past few years, the total number of consumers on the combined system has not increased and no material growth may reasonably be predicted for the near future. Under these conditions, it is apparent that the utility is still in a stage of development in which a full return upon the investment can not be granted without establishing a rate more than the service is reasonably worth and prohibitory to the consumers.

The rate schedule set out in the accompanying order has been computed and designed to yield sufficient revenue to cover the necessary operating expenses, together with depreciation, and will also yield a return on the actual investment, exclusive of donated properties, which will be reasonable under existing conditions and circumstances.

Analysis of the data which were submitted relating to the operations of this utility and particularly that regarding the character of water use on this system under the flat rates in effect and the amount of pumping which has been necessary to supply the present requirements of the few consumers served indicates both an extravagant and wasteful use of water and an inequitable distribution of charges among the various consumers according to their respective uses of water. The complete metering of this system, as proposed, will remedy the conditions mentioned above, which obtain under the existing flat rate method of delivery. The result will be a conservation of the water supply by elimination of wasteful use, an equitable distribution of the charges, whereby each consumer pays in accordance with his actual and necessary use of water, and a material reduction in pumping expenses.

ORDER.

O. N. Hirsch, who owns and operates a public utility under the fictitious firm name and style of Irvington Water Works, having made application to this Commission for an order establishing a schedule of metered rates to be charged for water delivered to his consumers in the unincorporated town of Irvington and adjacent territory, Alameda County, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises:

It is hereby found as a fact that the rates now charged by O. N. Hirsch, operating under the fictitious firm name and style of Irvington Water Works, for water supplied his consumers are unjust and unreasonable in so far as they differ from the rates herein established, and that the rates herein established are just and reasonable rates to be charged for such service. And basing its order upon the foregoing findings of fact and upon the other statements of fact contained in the opinion preceding this order;

CALIFORNIA RAILROAD COMMISSION DECISIONS.

It is hereby ordered, that said O. N. Hirsch be and he is hereby directed to file with this Commission, within thirty days from the date of this order, the following schedule of rates to be charged for all water delivered to consumers subsequent to thirty-first day of December, 1927:

Meter Rates.

Minimum monthly charges:

For $\frac{3}{4}$ -inch meter	-----	\$1 75
For $\frac{1}{2}$ -inch meter	-----	2 25
For 1-inch meter	-----	3 00
For $1\frac{1}{2}$ -inch meter	-----	4 00
For 2-inch meter	-----	6 50

Each of the foregoing minimum monthly charges will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the following monthly meter rates.

Monthly meter rates:

For use of 600 cubic feet, or less	-----	\$1 75
From 600 to 2000 cubic feet, per 100 cubic feet	-----	25
From 2000 to 4000 cubic feet, per 100 cubic feet	-----	20
All over 4000 cubic feet, per 100 cubic feet	-----	15

Monthly flat rates:

Those consumers receiving unmeasured service shall be charged under the existing flat rate schedule until the first day of the month immediately following the installation of a meter on any such flat rate service.

It is hereby further ordered, that said O. N. Hirsch be and he is hereby directed to file with this Commission, within thirty days from the date of this order, rules and regulations to govern relations with his consumers, such rules and regulations to become effective upon their acceptance for filing by this Commission.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this tenth day of December, 1927.

DECISION No. 19113.

IN THE MATTER OF THE PETITION OF THE CITY OF MARYSVILLE, A MUNICIPAL CORPORATION, THAT THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA REQUIRE THE ALTERATION OF A RAILROAD CROSSING OVER AND ACROSS B STREET, IN THE CITY OF MARYSVILLE, COUNTY OF YUBA, STATE OF CALIFORNIA.

Application No. 14132.

Decided December 10, 1927.

CROSSINGS—GRADE SEPARATIONS—PEDESTRIAN SUBWAY.—City of Marysville authorized to enlarge existing crossing of B street under the tracks of the Southern Pacific Company, by the construction of a pedestrian subway, and cost thereof apportioned.

CROSSINGS—DIVISION OF COSTS—GRADE SEPARATIONS—CONSTRUCTION.—Where it was not essentially the relief from the hazard of crossing railroad tracks at grade which necessitated the construction of a pedestrian subway, but the fact that, due to the creation of an artificial barrier by the railroad for its sole benefit, the pedestrian traffic, in order to accomplish a crossing, must either

use the hazardous vehicular roadways of the present subway or climb over said barrier, the cost of constructing the pedestrian highway was assessed 25 per cent to applicant city and 75 per cent to the carrier.

W. P. Rich, for Applicant.

F. W. Mielke, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

The city of Marysville filed the above entitled application on October 8, 1927, wherein it asks that this Commission direct the alteration of the existing crossing of B street under the tracks of the Southern Pacific Company in such a manner as to make said crossing safe for pedestrian traffic. A public hearing was held in this matter before Examiner Satterwhite in the city of Marysville on November 18, 1927.

The city of Marysville is situated near the junction of the Yuba River with the Feather River, the Yuba River being located south and east of the business section and the Feather River west and north. Flood levees are located along both banks of these rivers.

The tracks of the Southern Pacific Company cross both these rivers, passing over the flood levees. Originally, these tracks descended toward the center of Marysville at steep grades until approximately level with the city streets. In order to somewhat reduce these grades, the railroad, in the early part of 1910, applied to and was granted permission by the city of Marysville to raise its tracks within certain limits, subject to certain provisions, one of which required that the railroad build and maintain, across B street, a subway having a clear width of thirty feet and a clear height of fifteen feet.

The Railroad Company began the construction of a subway which, however, did not conform with the above provision and which the city of Marysville refused to accept. Construction consequently was stopped, the subway abandoned and the city agreed to allow the construction of the present subway, which consists of two roadways approximately fifteen feet in width instead of a single roadway thirty feet in width, as originally required. No facilities were provided for pedestrian traffic other than the two vehicular roadways above described.

It is now proposed to construct a pedestrian subway independent of the present vehicular subway and east thereof.

Testimony was presented by applicant, showing the amount of and growth in the traffic using the existing subway, particularly in regard to pedestrian traffic. These witnesses testified that the traffic had grown to such a density that the use of the vehicular roadways by pedestrians was extremely hazardous and that a pedestrian subway was necessary, and that, upon the completion of a high school now being constructed north of the Southern Pacific tracks, the necessity for such subway would be greatly increased. The Southern Pacific

Company stipulated that public convenience and necessity required the construction of the proposed subway.

The representative of the city of Marysville stated that agreement had been reached with the Southern Pacific Company as to the construction of the pedestrian subway. It was agreed that the subway should be constructed in accordance with the plans attached to the application, that the actual construction should be undertaken by the Southern Pacific Company and that the approximate cost would be \$18,000. However, agreement was not reached as to the division of this cost.

The city of Marysville contends that the railway tracks were raised for the sole convenience of the Southern Pacific Company; that the manner in which such tracks are elevated above the city streets forms a barrier between two portions of the city; that this condition, and not the density of traffic along the streets, determines the necessity for the many subways; that the Southern Pacific Company maintains an embankment on a portion of B street for its own convenience and that only thirty feet of the fifty-six foot roadway is open through the subway under the railroad tracks; that said subway originally was designed and constructed by the Southern Pacific Company at the sole cost of said company, with no provision for pedestrian traffic, and must now be enlarged in order to properly provide for same. Due to these circumstances, the city of Marysville contends that the proposed pedestrian subway should be built at the sole cost of the Southern Pacific Company.

The Southern Pacific Company contends that the pedestrian subway is now required solely to care for foot traffic that will be created upon the completion of the high school; that the city of Marysville is in the position of a "new comer" and consequently should be assessed with 75 per cent of the cost and the Southern Pacific Company with 25 per cent.

The testimony in this matter shows the contention of the Southern Pacific Company not to be a fact. The Southern Pacific Company's tracks were built after B street was established and in use by the city of Marysville. These tracks were subsequently raised, in order to improve railway operating conditions, thereby necessitating the construction of a number of subways, one of which is the existing subway at B street.

It is the opinion of the Commission that it is not essentially the relief from the hazard of crossing railroad tracks at grade which necessitates the construction of the pedestrian subway proposed in this application, but rather the fact that, due to the creation of an artificial barrier by the railroad for its sole benefit, the pedestrian traffic, in order to accomplish a crossing, must either use the vehicular roadways of the

present subway, which all parties admit would be unduly hazardous, or be subjected to unreasonable inconvenience and attending hazards in being compelled to climb over said barrier.

The city's contention that the railroad company should be assessed the entire cost does not appear to be justified from the record herein. The city will receive substantial benefits from having a pedestrian crossing not at grade, especially in view of the fact that a new high school is about to be opened in this vicinity. It should, therefore, bear a portion of the cost of this improvement.

After due consideration, it is concluded that the cost of constructing this subway, amounting to approximately \$18,000, should be assessed 25 per cent to applicant and 75 per cent to the Southern Pacific Company.

ORDER.

The city of Marysville, having filed the above entitled application, a public hearing having been held, the Commission being apprised of the facts and the matter being submitted and ready for decision; therefore,

It is hereby ordered, that permission and authority be and it is hereby granted to the city of Marysville to enlarge the existing crossing of B street under the tracks of the Southern Pacific Company by the construction of a pedestrian subway east of the existing vehicular subway, as shown by plans attached to this application, said pedestrian subway to be constructed subject to the following conditions:

(1) The entire cost of constructing the subway shall be borne 25 per cent by applicant and 75 per cent by the Southern Pacific Company. The maintenance of the subway shall be borne by applicant. No portion of the cost herein assessed to applicant for the construction or maintenance of said subway shall be assessed by applicant, in any manner whatsoever, to the operative property of Southern Pacific Company.

(2) Said subway shall be constructed in accordance with the detailed plans filed with the application and shall be properly lighted at night.

(3) Applicant shall, within thirty days thereafter, notify this Commission, in writing, of the completion of the installation of said subway.

(4) If said subway shall not have been installed within one year from the date of this order, the authorization herein granted shall then lapse and become void unless further time is granted by subsequent order.

(5) The Commission reserves the right to make such further orders relative to the construction and maintenance of said subway as to it may seem right and proper if, in its judgment, public convenience and necessity demand such action.

The authority herein granted shall become effective on the date hereof.

Dated at San Francisco, California, this tenth day of December, 1927.

DECISION No. 19115.

IN THE MATTER OF AN INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE PRACTICES AND OPERATIONS OF W. H. McGANN AND H. J. MORGAN, OPERATORS OF AN AUTOMOTIVE TRUCKING SERVICE BETWEEN LOS ANGELES AND ORANGE AND INTERMEDIATE POINTS.

Case No. 2430.

Decided December 10, 1927.

CERTIFICATES—REVOCATION—ABANDONMENT.—W. H. McGann and H. J. Morgan, operating under the fictitious name of Orange County Fast Freight Line, having abandoned the service, operative rights between Los Angeles and Orange and intermediate points are revoked.

CERTIFICATES—SUSPENSION AND REVOCATION—ABANDONMENT.—Upon abandonment of service, automotive operative rights will be revoked.

Richard T. Eddy, for Triangle-Orange County Express, Intervener.

BY THE COMMISSION.

OPINION.

This is a proceeding in which W. H. McGann and H. J. Morgan, copartners operating under the fictitious name of Orange County Fast Freight Line, were cited to appear before the Commission and show cause, if any, why their operative rights granted under Decision No. 7462, or otherwise, for the operation of an automotive truck service between Los Angeles and Orange and intermediate points, should not be revoked because of alleged abandonment of service.

A public hearing herein was conducted by Examiner Williams at Los Angeles, subsequent to due notice by registered mail upon W. H. McGann, one of the partners, the matter was submitted after hearing and now is ready for decision.

Respondents herein did not make any appearance at the hearing, either in person or by counsel. Instead, a letter was presented from William H. McGann, in which he stated that he believed the operative right granted to H. J. Morgan and himself under Decision No. 7462 should be revoked, "as the same has not been operating for more than a year." The records of the Commission show that neither McGann nor Morgan possesses or claims to possess any prescriptive right or any right other than the one granted by the above mentioned decision.

W. F. Lemon, service inspector for the Railroad Commission, testified as to his efforts to investigate the operation from time to time. He testified that in December, 1925, many complaints were filed with the Commission relative to the service of this carrier, and also as to its

failure to account to consignors for C. O. D. collections. In September, 1926, according to Mr. Lemon's testimony, he found respondents conducting an operation, not upon schedule as filed with the Commission, but only when they had a load sufficient to justify a trip, shipments constituting less than a truck load being turned over to other carriers at their rates. In October, 1926, respondents were prevented from using their terminal because of arrears in rent, and thereupon refused further acceptance of freight and referred consignors to other carriers. At this time respondents possessed no equipment and operated by alleged "leased" trucks, although no leases were filed with the Commission.

It appears from the record that respondents in October, 1926, completely abandoned all service under certificate granted by Decision No. 7462 and have since failed to operate.

Richard T. Eddy, appearing for Triangle-Orange County Express, intervener, introduced no testimony, but stated that this carrier has abundant equipment and has been giving the service neglected by respondents for the past year.

It appears from the record herein and from the attitude of respondents that the certificate granted under Decision No. 7462 on Application 5565 should be revoked. The order following will so provide.

ORDER.

An order having been issued on October 11, 1927, to William H. McGann and H. J. Morgan, copartners operating under the fictitious name of Orange County Fast Freight Line, to show cause why the certificate of public convenience and necessity heretofore granted them by Decision No. 7462 on their Application No. 5565 should not be revoked, a public hearing having been held, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the findings of fact as set forth in the opinion preceding this order;

It is hereby ordered, that the certificate of public convenience and necessity heretofore granted by this Commission by its said Decision No. 7462 on Application No. 5565, dated April 21, 1920, granting to William H. McGann and H. J. Morgan the right to operate an automobile truck line as a common carrier of freight between Los Angeles and points in Orange County and certain intermediate points, be and the same hereby is revoked and canceled, and that no further operation by William H. McGann or H. J. Morgan may be given under the certificate hereinabove referred to.

The effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this tenth day of December, 1927.

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DECISION No. 19117.

IN THE MATTER OF THE APPLICATION OF SENATOR SERVICE COMPANY, FOR A CERTIFICATE TO OPERATE AN AUTOMOBILE TRUCK SERVICE AS A COMMON CARRIER OF FREIGHT BETWEEN SACRAMENTO AND FALLEN LEAF LAKE.

Application No. 13955.

Decided December 10, 1927.

CERTIFICATE—AUTO TRUCK OPERATIONS.—Application of Senator Service Company to operate automotive truck service between Sacramento and Fallen Leaf Lake, dismissed.

PLEADING AND PROCEDURE—MOTIONS—To DISMISS.—When at a hearing, applicants for a certificate move a dismissal without prejudice on the ground that they are unable to secure witnesses at that time of the year because resorts being closed the owners could not attend as witnesses, the application will be dismissed, but not without prejudice; and it will be provided that should applicants hereafter file a similar application a hearing would not be set until a prima facie showing had been made by the filing of affidavits of material witnesses endorsing the proposed service.

Fred J. Harris, for Applicants.

Sanborn and Roehl and DeLancey C. Smith, by *A. B. Roehl*, for Tahoe Transportation Company and El Dorado Motor Transportation Company, Protestants.

Edward Stern, for American Railway Express Company, Protestant.

W. S. Johnson, for Southern Pacific Company, Protestant.

Henry S. Lyons, for El Dorado Company and El Dorado Transportation Company, Inc., Protestants.

BY THE COMMISSION.

ORDER OF DISMISSAL.

The above entitled matter came on regularly for hearing before Examiner Satterwhite at Sacramento, California, on November 9, 1927, at 10 a.m., at which time and place said applicants moved a dismissal of said application without prejudice on the ground that they had been unable to secure the necessary witnesses to attend the hearing at this period of the year for the reason that many of said witnesses were resort owners at and in the vicinity of Lake Tahoe and that most of these resorts were now closed.

The above named protestants announced that they were prepared to proceed and that witnesses were present to testify in support of their protests and that said protestants were opposed to any continuance or that the application should be dismissed without prejudice.

We are of the opinion that the said application should be dismissed, but not without prejudice, and the order of dismissal herein shall be made with the proviso and upon the condition that if applicants shall hereafter file with the Railroad Commission a similar application for the service as proposed that such application shall not be placed upon the calendar for a hearing unless and until said applicants shall have made a prima facie showing satisfactory to this Commission by the filing of affidavits of material witnesses endorsing the proposed service.

ORDER.

A public hearing having been called in the above entitled application and said applicants having moved a dismissal without prejudice of said matter, and the said motion for dismissal having been submitted and the Commission now being fully advised in the premises;

It is hereby ordered, that the said application be and the same is hereby dismissed upon the condition that, if said applicants shall hereafter file with the Railroad Commission a similar application for the service as proposed, the same shall not be placed upon the calendar for hearing unless and until said applicants shall have made a prima facie showing satisfactory to the Railroad Commission by the filing of affidavits of material witnesses endorsing the proposed service.

Dated at San Francisco, California, this tenth day of December, 1927.

DECISION No. 19119.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA TRANSIT COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY FOR THE TRANSPORTATION OF EXPRESS MATTER BETWEEN OAKLAND, VALLEJO, NAPA, MARTINEZ AND SACRAMENTO AND INTERMEDIATE POINTS.

Application No. 13666.

Decided December 15, 1927.

CERTIFICATES—AUTOMOTIVE TRANSPORTATION—EXPRESS.—California Transit Company authorized to transport express packages not exceeding one hundred pounds each on stages over present operative rights between Oakland and Vallejo, Oakland and Napa, Oakland and Martinez and Vallejo and Sacramento, and all other intermediate points as such rights may be finally determined after rehearing of Application No. 11005.

Earl A. Bagby, for Applicant.

George Baker and Edward Stern, for American Railway Express Company, Protestant.

BY THE COMMISSION.

OPINION.

By its application, California Transit Company, a corporation, seeks to acquire a certificate of public convenience and necessity for the transportation of express on its operative rights between Oakland and Vallejo, Martinez, Napa and Sacramento and intermediate points, and to consolidate such rights to transport express with the operative rights of the applicant on all other parts of its said consolidated system and in the establishment thereof to apply the rates, rules and regulations governing the transportation of express that are now effective on the general system of the applicant.

Public hearings on this application were held before Examiner Gannon at San Francisco, Vacaville and Sacramento, the matter was duly submitted and is now ready for decision.

It is alleged by applicant that the operative rights over which express rights are now sought were obtained by this applicant by purchase from

Western Motor Transport Company, pursuant to Decision No. 10073 on Application No. 7340, dated February 8, 1922, and that at the time said operative rights were so acquired said Western Motor Transport Company was conducting an express transportation business in connection therewith; that said decision of this Commission, granting to said Western Motor Transport Company the right to sell, and to this applicant the right to purchase, all of the operative rights of said Western Motor Transport Company, among other things, provided that this applicant should immediately file tariff of rates and time schedules or adopt as its own tariffs and time schedules theretofore filed with the Railroad Commission by applicant Western Motor Transport Company, the same to be identical with those filed by applicant, Western Motor Transport Company; that this applicant complied with such instruction and adopted the express rates of said Western Motor Transport Company and the operations contemplated thereby and has since continued to transport express over said operative rights in accordance therewith.

It was held by this Commission in Decision No. 18107 on Application No. 11005 rendered March 28, 1927, that California Transit Company does not possess the right to transport express or property over or along the following routes, to wit:

- a. Between Oakland and Martinez and intermediate points;
- b. Between Oakland and Napa and intermediate points;
- c. Between Oakland and Vallejo and intermediate points;
- d. Between Vallejo and Sacramento and intermediate points.

Moreover, it was expressly set forth in the order following the findings in Decision No. 18107 that no right to transport express over or along the above described routes was therein granted. In accordance with the findings and subsequent order of this Commission, applicant discontinued its express service over said route on or about April 5, 1927, and at the same time filed the application which is here being considered.

Applicant alleges that the cessation of express service over said operative route has resulted in great inconvenience to the public in that there exists no other similar service which may be substituted in lieu thereof.

It is further urged by applicant that public convenience and necessity require that such operative right for the transportation of express be consolidated with other rights for the transportation of express now owned by applicant in the same manner and to the same extent that the rights for the transportation of passengers are consolidated, especially since such transportation of express is incidental to the transportation of passengers, is transported on the same stages with passengers, and may only be transferred from one stage to another at a junction point at such times and places as the passengers themselves are transferred.

The granting of the application in its entirety was protested by American Railway Express Company. During the progress of the hearing at Sacramento, Beverly Gibson, representing River Auto Stages, entered an appearance and protested the application in so far as it might affect the operation of his line between Sacramento and Davis.

In support of its contention as to the necessity for resumption of this service, applicant called a large number of witnesses representing both shippers and retail dealers. The shippers so testifying came chiefly from Oakland and Richmond and in the main represented dealers in automobile parts and accessories, wholesale florists, kodak finishers and similar commodities, the supplying of which might well be regarded as of an emergency character.

A firm in Berkeley, dealing in biological products, serums and vaccines, testifying through its vice president, declared that all their smaller and emergency shipments would go by stage, which service they regarded as more satisfactory than rail service. They served practically all towns embraced in the northern division of California Transit Company and have always found stage service entirely adequate.

The testimony of witnesses representing dealers in automobile parts and accessories was substantially the same in each instance. They had all used the service of the applicant, had found it satisfactory, had been greatly inconvenienced by its discontinuance, and urged its restoration. It appears from the testimony that the public demands immediate service in the supplying of auto parts, especially in case of breakdowns, which service can most adequately be supplied by the stages. One witness testified that he had as many as five to seven urgent calls per day that demanded instant attention. The testimony of another witness was to the effect that one of his customers had ordered a gear for an automobile, on which such part had been broken, and that while with stage service the part would have been at his garage in an hour, in this instance he found it necessary to close his place of business and himself drive to Oakland and get the part. Hourly service is demanded and the overnight service of the express company does not meet the requirements.

The circulation managers of certain San Francisco, Oakland and Richmond daily newspapers testified as to the need for stage service in the distribution of their publications to the various points involved in this application. The stages depart at special hours when no trains are available, thus enabling the publishers to get their papers to the several towns at a salable time.

A wholesale florist of Oakland testified that the discontinuance of stage service had practically wiped out all of his business in a certain section of the northern division. This witness testified that formerly he had a business in Napa aggregating \$1,400 a month and since the stage

service was discontinued on April 5th he has shipped only \$14 worth of flowers to that point. One of his customers, residing in Suisun, explained to the witness that in the absence of train, as well as stage service, she was compelled to have her flower orders sent from San Francisco by boat and then drive 18 miles to get them.

Adverting now to the testimony of retail dealers, we find the record replete with the evidence of individuals and firms relying upon a prompt and speedy delivery service from the bay region. Some thirty-six witnesses were produced at the Vacaville hearing in support of the application, such witnesses coming from Vacaville, Vallejo, San Francisco, Dixon and Napa. By far the greater number of such witnesses were engaged in the garage and automobile accessories business and their testimony in substance confirmed the statements made by wholesalers whose testimony has been above referred to. It was testified to by an automobile supply dealer of Vacaville that it frequently occurs that customers have been obliged to remain in town over night, whereas with the former stage service he might have telephoned to Sacramento and obtained the extra parts by stage, thus permitting the customer to be on his way before evening. Another witness, engaged in the same activity in Vallejo, testified that he has lost fifty per cent of his business in the territory affected by the cessation of stage service. Unless parcel post shipments are in the post office by 2 p.m., they go to San Francisco and are brought back via Oakland and finally delivered to the post office in the particular town to which destined, this procedure usually requiring one and a half days.

Several fruit growers and shippers testified as to the need for continued stage service over the route proposed in this application. The service is required principally for the supplying of extra parts for tractors and automobiles, the tractors being run day and night during certain seasons. One witness testified that it meant a loss of from \$75 to \$100 for every twenty-four hours that his tractor was laid up for repairs.

A druggist of Vacaville, under cross examination by protestant American Railway Express Company, testified that most of his shipments were emergency in their nature and that so far as he was concerned the express office at Vacaville might well be discontinued, provided stage service were resumed.

Of the remaining many witnesses who testified at the Vacaville hearing there appeared to be a consensus of opinion as to the necessity for a restoration of this stage service. All had used the stage service and had found it to be entirely satisfactory. Neither parcel post, nor rail express, nor a combination of both, are adequate to meet the present demand for prompt service and emergency shipments.

Applicant produced some eight witnesses at the Sacramento hearing.

Their testimony in the main was a duplication of what had gone before. A representative of one of the largest automobile accessories establishments of Sacramento testified that the business of his firm had fallen off from \$1,000 to \$1,500 per month in the northern division since the discontinuance of stage service. He stated that they had practically lost their business in Vallejo, Napa and Cordelia and other points because they can not render service by stage.

The manager of the Traffic Department of the Sacramento Chamber of Commerce, representing, as he stated, the entire chamber membership of 1500, testified that it was desirable and necessary to have a service that may be completed in at least a day's time.

Protestant American Railway Express Company called eight witnesses in support of its protest and also offered the testimony of three employees. Five of these witnesses are in business in San Francisco and three in Oakland. Protestant produced no witnesses from any other point in the northern division.

The traffic manager of the Emporium, who also represented the Central California Traffic Association, with its membership of thirty-four firms, testified that in so far as his clients were concerned the present service is adequate, though he did not oppose the application. The traffic manager of the Owl Drug Company testified similarly, though he would not say there was no need for additional service. His establishment in San Francisco had the benefit of a frequent daily pick-up service, supplemented by special wagons of the express company when required.

A retail florist of Oakland testified that he used the service of American Railway Express Company and found it satisfactory; in fact, was of the opinion that flowers could be more satisfactorily shipped by rail express than by stage. That was also the substance of testimony given by a San Francisco florist. A dealer in automobile tires, operating in Oakland, testified that the present express service was satisfactory and that he could not recall any shipments that required instant delivery.

The testimony of protestant's employees went almost exclusively to the matter of service and rates now rendered in the territory here involved and went into these matters in considerable detail. The usual schedules of rate comparisons and number of available services were introduced as exhibits by both parties to the hearing.

We have given careful consideration to the evidence and exhibits in this proceeding. Applicant offers what may be termed a specialized service for the handling of small packages, especially serving the needs of shippers and users of automobile parts and accessories. In fact, such shipments, averaging approximately 25 pounds each, would probably constitute a large percentage of the total shipments. The testi-

nony of witnesses does not disclose any demand for a pick-up and delivery service such as is offered by the chief protestant herein. On the contrary, several witnesses testified that they would prefer to deliver and receive their shipments at the stage depot as an additional assurance of prompt service. Unquestionably there exists a very definite and imperative demand for the expeditious handling of small packages, particularly shipments of automobile parts. The discontinuance of the service herein sought to be restored undoubtedly created a distinct hardship among a large number of merchants operating in this territory and who had come to rely upon quick service to their customers as a stimulant to trade. The record contains the testimony of several witnesses who were forced to the necessity of using their own cars to effect delivery of shipments as soon as the stage service was discontinued. It would be fair to say that many hundreds of shippers were affected adversely by the order of discontinuance. Applicant introduced in evidence a mass of petitions, telegrams and letters, all purporting to urge a prompt restoration of the service prayed for.

Protestant American Railway Express Company offered testimony and exhibits intended to substantiate its protest, but such evidence did not in the main affect the problem herein involved. Undoubtedly said protestant offers an excellent pick-up and delivery service throughout its system, but the question here involved is primarily that of a local service that demands peculiarly prompt collection and delivery.

There was no opposition to the proposed consolidation of the operative rights herein sought with the operative rights of applicant to transport express on all other parts of its consolidated system. The benefits and economies of unification and the ability to render through service from point to point are obvious and should in this instance be granted.

Upon full consideration of all the evidence, we are of the opinion, and hereby find as a fact, that public convenience and necessity require the transportation of express packages not exceeding a weight of 100 pounds each by California Transit Company on its stages over its present operative rights between Oakland and Vallejo, Napa, Martinez and Sacramento and all intermediate points, as such rights may be finally determined by the findings of the Commission in its rehearing of Application No. 11005.

ORDER.

A public hearing having been held in the above entitled application, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the findings of fact which appear in the preceding opinion:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the transportation of express packages not exceeding a weight of 100 pounds each by Cali-

fornia Transit Company on its stages over its present operative rights between Oakland and Vallejo, Oakland and Napa, Oakland and Martinez, and Vallejo and Sacramento, and all other intermediate points, as such rights may be finally determined by the findings of the Commission in its rehearing of Application No. 11005.

The Railroad Commission of the State of California also hereby declares that public convenience and necessity require the consolidation of such rights to transport express with the operative rights of the applicant to transport express on all other parts of its consolidated system; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted subject to the conditions as hereinafter set forth:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

2. Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariffs of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this fifteenth day of December, 1927.

DECISION No. 19120.

IN THE MATTER OF THE APPLICATION OF FRED SUTHERLAND FOR
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO
OPERATE AUTOMOBILE STAGE LINE BETWEEN SAN DIEGO AND
SPRING VALLEY AND INTERMEDIATE POINTS, AND FOR
REROUTING OF PRESENT SERVICE VIA IMPERIAL BOULEVARD.

Application No. 14148.

Decided December 15, 1927.

CERTIFICATES—AUTO STAGE.—Fred Sutherland authorized to extend present stage service between San Diego and Spring Valley from Lemon Grove to Spring Valley alternatively via Palm (Troy) street, Sweetwater street and/or Ban-

croft drive to Spring Valley Station. Application to operate on Broadway and Broadway Extension between San Diego and Spring Valley denied.

AUTOMOTIVE TRANSPORTATION—CERTIFICATES—IN GENERAL.—Authorization to operate auto stage service between existing termini but over another route for the major portion of the distance through a territory, the residents of which have not demanded such service, will not be granted where there has been no showing that present service is inadequate or that convenience and necessity demand the additional service.

AUTOMOTIVE TRANSPORTATION—CERTIFICATES—SERVING OF INTERMEDIATE POINTS.—The Commission might authorize auto stage operation between present authorized termini but largely over a new route, without the privilege of serving any intermediate points on such new route, where residents along that route have not demanded such service, but rights of such a nature should not be granted except where unavoidable.

Richard T. Eddy, for Applicant.

Morrison, Hohfeld, Foerster, Shuman and Clark, and *S. E. Mason*, for San Diego Electric Railway Company, Protestant.

BY THE COMMISSION.

OPINION.

A public hearing on the above entitled application was held in the city of San Diego on November 30, 1927. The San Diego Electric Railway Company appeared to protest the granting of the application as prayed for over that portion of the route known as Broadway Extension, but offered no objection to certain additions to the service now rendered by applicant over Imperial avenue and other routes to the east thereof in the vicinity of Spring Valley.

For a better understanding of the territory now served and proposed to be served, as well as that now served by the protestant, reference should be made to Decision No. 18717 rendered by this Commission on August 16, 1927, on Applications Nos. 13617, 13783 and 13784. The eastern terminus of applicant's present stage service as authorized by that decision is at Spring Valley, a growing residential district about nine miles easterly from the business section of San Diego. There has been a natural accretion to the population thus served by the addition of several hundred families located near this terminus, most of whom are now without adequate transportation service to and from San Diego. This district lies south of Spring Valley Station and eastward from Lemon Grove, the center of which is near the junction of Bancroft drive and Palm street (sometimes known as Troy street), approximately a mile and a half from applicant's Imperial avenue line. By routing some of the stages which now run along Imperial avenue between Lemon Grove and Spring Valley Station over Palm (Troy) street, Bancroft drive and Sweetwater avenue, this growing population can be served. There was a large number of witnesses who urged that such extended service by the applicant be rendered, and, as no protest was made thereto, there appears to be no reason why it should not be granted.

As to the further service proposed by applicant over Broadway, a greater difficulty is presented. His present operating right between

San Diego and Spring Valley, as stated above, is over Imperial avenue. It traverses several comparatively thickly settled communities, making desirable the operation of sixteen buses each way daily. The evidence seemed to be that on several occasions at least the buses were filled to capacity, but it is not quite clear that the proposed extension of service in the neighborhood of Spring Valley would necessitate additions to the present daily schedule. However, the applicant now seeks permission of this Commission to inaugurate a new service of four round trips daily between the same termini, but over another route for the major portion of the distance, along which route there is at the present time practically no need for transportation service. The proposed new route is along Broadway boulevard and it is this proposed service to which the protestant San Diego Electric Railway seriously objects.

Protestant contends that the public convenience and necessity do not demand any transportation service along Broadway at the present time, for the reason that there are scarcely no persons living along such thoroughfare to avail themselves of such service, and, furthermore, that it itself at all times has been and now is ready to give such service whenever the public convenience so requires. A number of photographs and maps were introduced in evidence by protestant to show that there are now along the whole length of the proposed route on Broadway only about twenty homes which are not within a distance of about three-quarters of a mile from applicant's present stage line. Nearly all of these are located near the eastern terminus of Broadway where it unites with Imperial avenue in Lemon Grove. Applicant introduced no evidence to the contrary and, in fact, admits this generally to be the situation, but, nevertheless, in the belief that the territory is ready for immediate development, expressed himself as ready to at once inaugurate a bus service therein.

There was no evidence presented to show a demand from the residents themselves along Broadway for transportation service, but a very strong appeal was made by those persons living east of Imperial avenue around Lemon Grove and Spring Valley to accord them service into San Diego over Broadway in addition to the present Imperial avenue route. Broadway is preferred because it is a new, well paved highway, not as congested as the older road and, though there was some dispute as to whether there would be any actual saving in distance, this route would undoubtedly, for a time at least, effect some saving in time. The present run to San Diego requires thirty-five to forty minutes, whereas the proposed route would reduce such running time by ten minutes. Although many persons residing east of Imperial avenue might prefer the Broadway route, because of such saving in running time, none of the witnesses, with the possible exception of O. F. Zottmann, who desired transportation to a point near Thirty-fifth and Broadway in San Diego,

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ld normally be precluded from using the applicant's stages should
continue to operate on the Imperial route solely. No witnesses
presented who live west of Imperial avenue along Broadway.
testimony of Mr. Sutherland and of those witnesses living east of
Imperial avenue was that there were about fifty families living in the
Lemon Grove district to the west of Imperial, but nearly all of such
residents live within three-quarters of a mile from the existing bus

would appear, then, that the applicant seeks a certificate of public
convenience and necessity to operate auto stages through a territory
residents of which have not demanded such service, if, indeed, there
more than a few residents living therein who might make such a
demand. It is true that the residents of the Spring Valley district
have expressed a decided preference in favor of the Broadway route,
certainly there has been no showing that the present service is
adequate or that public convenience and necessity demand the addi-
tional Broadway service. Imperial avenue has at times been impass-
able during heavy rains, but admittedly this was an unusual circum-
stance. This Commission might accede to the requests of the Spring
Valley residents and accord the applicant the right to operate these
stages on Broadway between the present authorized termini without
the privilege of serving any intermediate points thereon, but we
doubt that rights of such a nature should not be granted except when
avoidable.

Accordingly, the applicant will, in the following order, be granted
extension of his present operating rights in order to better serve
residents in and to the south of Spring Valley, but, in so far as the
applicant seeks an operating right on Broadway and Broadway exten-
sion, this application should be denied.

ORDER.

Application having been made to the Railroad Commission by Fred
Sutherland for a certificate of public convenience and necessity to
operate an automobile stage service between San Diego and Spring
Valley and intermediate points, and rerouting of present service via
Imperial avenue, a public hearing having been held, the matter
having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares
that public convenience and necessity require the operation by appli-
cant Fred Sutherland of an automobile stage service for the trans-
portation of passengers between San Diego and Spring Valley over the
existing route or routes, not as a separate operating right, but in
junction with and as a part of applicant's existing operating rights
between said termini over Imperial boulevard, to wit: From Lemon

Grove to Spring Valley alternatively via Palm street (sometimes known as Troy street), Sweetwater street and/or Bancroft drive to Spring Valley Station.

It is hereby ordered, that a certificate of public convenience and necessity for such a service be and the same hereby is granted to Fred Sutherland, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

2. Applicant shall file, in duplicate, within a period not to exceed twenty days from the date hereof, time schedules which shall cover the service herein authorized, and commence the operation of such service within a period of not to exceed thirty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that in all other respects the application herein be and the same hereby is denied.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this fifteenth day of December, 1927.

DECISION No. 19121.

IN THE MATTER OF THE APPLICATION OF COAST COUNTIES GAS AND ELECTRIC COMPANY, A CORPORATION, FOR AN ORDER OF THE RAILROAD COMMISSION AUTHORIZING SAID COMPANY TO ISSUE AND SELL FOUR THOUSAND SHARES OF ITS FIRST PREFERRED CAPITAL STOCK AT NOT LESS THAN NINETY-SEVEN PER CENT OF THE PAR VALUE THEREOF.

Application No. 14209.

Decided December 15, 1927.

SECURITY ISSUES—STOCK.—Coast Counties Gas and Electric Company authorized to issue and sell, on or before December 31, 1928, at not less than 97 per cent of par value, 4,000 shares of first preferred stock of the aggregate par value of \$400,000.

SECURITY ISSUES—COST OF FINANCING.—The evidence not justifying the allowance of 4 per cent of par value of stock to pay stock selling expenses and commissions, but 2 per cent was permitted to be used for those purposes.

THE COMMISSION.

OPINION.

In this proceeding Coast Counties Gas and Electric Company asks permission to issue and sell 4000 shares of its first preferred 6 per cent stock, of the aggregate par value of \$400,000, for the purpose of reimbursing its treasury and of permanently financing the cost of additions and betterments to its electric and gas plants and systems. Coast Counties Gas and Electric Company has an authorized capital stock of \$7,000,000, divided into 70,000 shares of the par value of \$100 each, of which 50,000 shares are 6 per cent cumulative first preferred stock, 10,000 are 6 per cent cumulative second preferred stock and 10,000 are common stock. As of October 31, 1927, the company reported outstanding \$3,217,500 of the first preferred stock, \$1,000,000 of the second preferred stock and \$1,000,000 of common stock, a total of \$5,217,500.

Its assets and liabilities, as of October 1, 1927, are reported as follows:

<i>Assets.</i>	
paid capital	\$6,986,692 30
subscriptions to capital stock	66,709 60
current and accrued assets:	
Cash and special deposits	\$108,700 79
Accounts receivable	250,092 80
Materials and supplies	125,314 05
Advances to affiliated companies	27,097 15
Marketable securities	49,181 99
Other current assets	861 00
	<hr/>
	561,247 78
Special funds	448,563 72
Deferred debits	60,429 26
Discount on capital stock	957,760 29
	<hr/>
Total assets	\$9,081,402 95
<i>Liabilities.</i>	
Capital stock	\$5,217,500 00
Indebtedness	1,738,000 00
Subscription to preferred stock	124,122 00
current liabilities:	
Accounts payable	\$99,896 01
Consumers' deposits	14,158 09
Accruals	183,966 65
Miscellaneous	39,500 00
	<hr/>
	337,520 75
Deferred credits	28,886 06
Reserves	1,157,833 95
Appropriated surplus	477,540 19
	<hr/>
Total liabilities	\$9,081,402 95

The company reports, in this application, that up to September 30, 1927, it had expended \$1,108,398.35 in making additions and betterments to its properties for which it had not been reimbursed with

proceeds from the sale of stock, bonds or other securities, the amounts, according to the testimony of W. W. Kamm, applicant's secretary, having been provided from surplus earnings and moneys represented by its depreciation reserve. Because of these uncapitalized expenditures it now seeks permission to issue the additional \$400,000 of first preferred stock for the purpose of reimbursing its treasury. After reimbursement the proceeds from the stock will be used to meet 1928 construction costs which are set forth in a copy of the 1928 budget filed in this matter as Exhibit No. 2. These costs are as follows:

Electric construction:

Distribution lines, transformers, meters, (1000 consumers) -----	\$250,000 00	
Watsonville substation -----	25,000 00	
Substation work -----	20,000 00	
Contingencies -----	29,500 00	
		\$324,500 00

Gas construction:

Mains, services, meters (1000 consumers) -----	\$80,000 00	
Santa Cruz gas works—shop, warehouse, miscellaneous -----	25,000 00	
Watsonville gas works—miscellaneous -----	2,500 00	
Hollister gas works—building, boiler, miscellaneous -----	15,000 00	
Gilroy gas works—boiler, miscellaneous -----	5,500 00	
Pittsburg gas works—miscellaneous -----	5,000 00	
Extensions—Soquel to Capitola, Watsonville Highway to Twin Lakes -----	20,000 00	
Contingencies -----	15,300 00	
		168,300 00

General:

Hollister warehouse and office -----	45,000 00	
Total -----		\$537,800 00

The company asks permission to sell its stock at not less than 97 per cent of par value and to use not exceeding 4 per cent of the par value of stock sold to pay stock selling expenses and commissions. The evidence submitted does not, in our opinion, justify such an allowance and the order herein will permit the use of not more than 2 per cent for these purposes.

ORDER.

Coast Counties Gas and Electric Company having applied to the Railroad Commission for permission to issue stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income;

It is hereby ordered, that Coast Counties Gas and Electric Company be and it hereby is authorized to issue and sell, on or before December 31, 1928, at not less than 97 per cent of par value, 4000 shares of its first preferred stock of the aggregate par value of \$400,000.

The authority herein granted is subject to the following conditions:

1. Of the proceeds received from the sale of the stock herein authorized, applicant may use an amount not exceeding 2 per cent of the par value of stock sold to pay commissions and expenses incident to the sale thereof, and the remaining proceeds, and such portion of the 2 per cent not needed to pay commissions and expenses incident to the sale of stock, to reimburse its treasury and to finance in part the expenditures for the additions and betterments referred to in the foregoing opinion, provided that only such expenditures as are properly chargeable to fixed capital accounts under the uniform system of accounts prescribed by this Commission, may be financed through the use of such proceeds.
2. Applicant shall keep such record of the issue and sale of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.
3. The authority herein granted shall become effective upon the date thereof.

Dated at San Francisco, California, this fifteenth day of December, 1927.

DECISION No. 19122.

THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION RELATIVE TO THE RATES, RULES, REGULATIONS AND PRACTICES OF KERN MUTUAL TELEPHONE COMPANY.

Case No. 2324.

THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE PROPRIETY OF CERTAIN RATES, RULES AND REGULATIONS OF THE KERN MUTUAL TELEPHONE COMPANY AS PROVIDED IN CERTAIN TARIFFS DESIGNATED AS "C. R. C. SHEETS Nos. 57-T, 58-T, 59-T, 60-T, 61-T, 62-T, 63-T, 64-T, 65-T."

Case No. 2353.

Decided December 15, 1927.

TELEPHONE UTILITY—RATES—SERVICE—RULES.—Rates of Kern Mutual Telephone Company serving Taft, Maricopa and Fellows found unjust and unreasonable. New schedules of rates established for exchange telephone, toll and telegraph service, exchange and primary rate area boundaries established, and service rules and regulations authorized.

Philip Conley, for Kern Mutual Telephone Company.

Wm. J. W. DeLong, for Ford City Community Welfare Club.

Harry B. Stickles, *in propria persona*.

A. Williams, and *Ooker F. Rathbone*, for City of Taft.

Robert Irwin, for California Independent Telephone Association.

Robert C. Ferry, for Union Oil Company of California.

George M. Cook, for Exchange Club of Taft.

L. O'Neil, for Pan American Petroleum Company.

Edwin Higgins, for Chamber of Mines and Oil.
F. T. Elder, for McFadden and Sill.
Ernest Smith, for Chanslor-Canfield Midway Oil Company.
J. V. Stevens, for Associated Oil Company.
H. P. Avery, for Shell Oil Company.

LOUTTIT, Commissioner.

OPINION.

In the above proceeding designated Case No. 2324 the Railroad Commission on its own motion instituted an investigation into the operations of the Kern Mutual Telephone Company. Subsequently, defendant submitted for filing certain rate schedules which were suspended by the Commission by the institution of its Case No. 2353. The above numbered cases were then consolidated for hearing and decision.

Public hearings were held in Taft in Case No. 2324, on March 22, 1927, and in Cases Nos. 2324 and 2353, consolidated, on May 24th and 25th, and on September 1st and 2d, and in San Francisco on September 14 and 16, 1927.

Kern Mutual Telephone Company, incorporated May 2, 1908, has issued 25,000 shares of capital stock of a par value of \$1 per share. All records show that other than the \$25,000 so obtained, additions to the fixed capital of the utility have been financed out of depreciation reserve and surplus or have been donated by its subscribers, in addition to which unusually large dividends, for thirteen years last past, have been paid to stockholders of the corporation.

Kern Mutual Telephone Company serves the communities of Taft, Maricopa and Fellows as one exchange area and McKittrick and vicinity as a second exchange area. Toll interexchange service is furnished between its McKittrick and Taft exchanges and between these exchanges and Bakersfield, at which point connection is made with the lines of The Pacific Telephone and Telegraph Company.

The schedule of present rates, effective in this utility's territory, appears to be grossly out of line with rates for similar service under similar conditions, effective in other exchanges within the state, and for the thirteen years' period above mentioned has returned to the operating company more than a reasonable return upon the fair value of its operative properties. As of January 1, 1927, Kern Mutual Telephone Company was furnishing service to a total of 1762 stations.

Kern Mutual Telephone Company prepared a detailed inventory of its property as of January 1, 1927. This inventory, without appraisal, was submitted to the Commission's engineering department on April 22, 1927. Prior to this time, engineers of this Commission had checked a considerable portion of the field notes as a test for accuracy in recording and had found a satisfactory performance. The inventory items as submitted by the company were not segregated in accordance

with the system of accounts for telephone companies, prescribed by the Interstate Commerce Commission and adopted by this Commission. Accordingly, the items of plant were segregated from the field notes into a new summary by engineers of the Commission working in conjunction with a representative of the company.

An appraisal of this inventory on an historical cost basis was made by E. M. Blakeslee of the Commission's engineering staff. The total of this appraisal, including materials and supplies, was \$244,975.

The company submitted an appraisal based on substantially the same inventory units and purporting to be on the historical cost basis, amounting to \$391,960.

Various oil companies appearing in this proceeding, through the representation of Mr. Hubert C. Ferry of Union Oil Company, presented an exhibit, relating to the cost of constructing telephone lines in the territory served by Kern Mutual Telephone Company. This exhibit and the testimony in support thereof, together with other corroborating testimony, indicate that the appraisal made by the Commission's engineer is not too low. An estimate of the cost of constructing a line extension, known to have been built in 1926, was made by the Commission's engineer, using the general method employed in appraising the inventory of the company's property. The estimated cost of this extension showed but slight variation from the actual experience of the company as evidenced by the bill, rendered by the company to the subscriber, covering the cost of this line extension.

The investment in the properties used by the company in the performance of its public utility service, according to the books of the company, was \$256,293 as of December 31, 1926.

After a full and thorough consideration of all the evidence submitted, I am of the opinion that a reasonable rate base for the period January 1, 1927, to December 31, 1927, and for a reasonable period immediately following, for use in these proceedings should be found as follows :

Estimated historical reproduction cost as of January 1, 1927, less materials and supplies -----	\$242,615 00
Estimated net additions and betterments January 1, 1927, to June 30, 1927 -----	7,193 00
Estimated net additions in progress of construction -----	30,359 00
Allowable materials and supplies and working cash capital -----	10,600 00
Total -----	\$290,767 00

The company, through its officers and witnesses, requested that it be allowed a return on its properties of not less than 12 per cent by reason of uncertainty and instability of the oil business, and the consequent risk assumed by the company for the continuance of its business in the future. The utility's exchanges are in territory extensively developed by the oil business but other than this industry there is little enterprise except merchandising and other small businesses necessary in the

support of a community. Evidence of record and especially that of T. Miles, petroleum engineer, indicates that the production of oil in this territory is expected to continue for many years in the future without any great or material reduction in the quantity of production.

Although the rates found reasonable herein will produce to the company approximately 30 per cent less revenue than the rates now effective, we are convinced that they will produce to the company a reasonable return on the rate base herein established.

The Commission's engineers estimate that the total revenue from all operations of the company for the year 1927, under the schedules of rates established in the order herein, would be \$108,632. Reasonable expenses estimated for the same period amount to \$85,302, leaving a net for return of \$23,330. The order herein will authorize schedules of rates for exchange telephone, toll and telegraph service, establish exchange and primary rate area boundaries and authorize rules and regulations to govern the furnishing of service.

The following form of order is recommended :

ORDER.

The Railroad Commission of the State of California having instituted investigations of the operations of the Kern Mutual Telephone Company as to its rates, rules and regulations and practices, public hearings having been held, briefs having been filed, these matters having been submitted and being now ready for decision :

The Railroad Commission of the State of California hereby finds as a fact that the rates for service now charged by Kern Mutual Telephone Company and the rules and regulations governing its service are unjust and unreasonable in so far as they differ from the rates, rules and regulations hereinafter set forth in exhibits "A," "B" and "D."

Basing its order on the foregoing finding of fact and on such other findings of fact as are set forth in the opinion preceding this order ;

It is hereby ordered, that Kern Mutual Telephone Company, on and after February 1, 1928, shall :

(1) Charge and collect for exchange telephone service the rates and charges as shown in Exhibit "A" attached hereto and made a part of this order.

(2) Charge and collect for toll telephone service and telegraph service the rates and charges shown in Exhibit "B" attached hereto and made a part of this order.

(3) Establish boundaries of the territory served in its Taft and McKittrick exchanges, and primary rate areas for the communities of Taft, Maricopa, Fellows and McKittrick, as shown on maps contained in Exhibit "C" attached hereto and made a part of this order.

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4) Establish rules and regulations governing the furnishing of vice as shown in Exhibit "D" attached hereto and made a part of order.

5) Cancel all schedules of rates for service and rules and regulations earning the furnishing of service not included in Exhibits "A," "B" and "D" attached hereto.

It is hereby further ordered, that Kern Mutual Telephone Company or before January 1, 1928, in accordance with the manner and form prescribed by General Order No. 68, shall:

a) File schedules of rates as shown in Exhibits "A" and "B" attached hereto.

b) File maps showing territory served in its Taft and McKittrick changes and primary rate areas for the communities of Taft, Maria, Fellows and McKittrick as shown on maps contained in Exhibit "D" attached hereto.

c) File rules and regulations governing the furnishing of service, contained in Exhibit "D" attached hereto.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this fifteenth day of December, 1927.

EXHIBIT "A."

EXCHANGE SERVICE RATES.

EXCHANGE SERVICE—SCHEDULE No. A-1-a.

TAFT EXCHANGE.

General Service.

Applicable to individual and party line business and residence flat rate service in the primary rate areas of the Taft exchange.

e. Grade of service	Rate per station per month			
	Business service		Residence service	
	Wall set	Desk set	Wall set	Desk set
h individual line station-----	\$5 25	\$5 50	\$3 75	\$4 00
h two-party line station-----	4 25	4 50	3 00	3 25
h four-party line station-----	3 75	4 00	2 50	2 75
h extension station (with or without bell)---	75	1 00	75	1 00

Conditions.

Individual, two-party and four-party line service will be provided outside the primary rate areas but within the exchange area at the above rates plus the following charges:

Primary service	Per month
h individual line primary station-----	\$1 00
h two-party line primary station-----	75
h four-party line primary station-----	50

Extension stations at the above rates will be installed on the premises on which primary station is located. For the charges for stations not so located see Schedule No. A-2.

EXCHANGE SERVICE—SCHEDULE No. A-1-b.**McKITTRICK EXCHANGE.****General Service.**

Applicable to individual and party line business and residence flat rate service within the primary rate area of the McKittrick exchange.

Rate.	Grade of service	Rate per station per month			
		Business service		Residence service	
		Wall set	Desk set	Wall set	Desk set
Each individual line station-----		\$4 50	\$4 50	\$3 25	\$3 50
Each two-party line station-----		3 75	4 00	2 50	2 75
Each four-party line station-----		3 25	3 50	2 00	2 25
Each extension station (with or without bell)----		75	1 00	75	1 00

Conditions.

Individual, two-party and four-party line service will be provided outside the primary rate area but within the exchange area at the above rates plus the following charges:

Primary service	Per month
Each individual line primary station-----	\$1 00
Each two-party line primary station-----	75
Each four-party line primary station-----	50

Extension stations at the above rates will be installed on the premises in which the primary station is located. For the charges for stations not so located see Schedule No. A-2.

EXCHANGE SERVICE—SCHEDULE No. A-2.**Outside Extension Station Rate.**

Applicable to extension stations not located on the premises in which the primary station is installed, throughout the territory served.

Rate.	Rate per station per month	
	Business and residence service	
	Wall set	Desk set
Each extension station (with or without bell)-----	\$1 25	\$1 50

Conditions.

Extension stations for business or residence service will be installed outside the premises in which the primary station is located, provided they are for use by the subscriber, are located on the subscriber's premises and are within satisfactory transmission limits.

EXCHANGE SERVICE—SCHEDULE No. A-3-a.**TAFT EXCHANGE.****Commercial Private Branch Exchange Flat Rate Service.**

Applicable to commercial private branch exchange flat rate service furnished within the primary rate areas of the Taft exchange.

Rate.	Service	Per month
Each switchboard position, including operator's set-----		\$5 00
Each battery supply circuit-----		3 00
Each ringing power supply circuit-----		3 00
First both way trunk line-----		7 50
Each additional both way trunk line-----		6 00
Each station, primary or extension, wall set-----		75
Each station, primary or extension, desk set-----		1 00

Conditions.

(1) Private branch exchange service will be provided outside the primary rate areas but within the exchange area at the above rates plus a charge of \$1 per month for each trunk line, battery supply circuit and power supply circuit.

(2) Each private branch exchange system will consist of at least one switchboard position, two (2) trunk lines and four (4) stations, exclusive of the switchboard telephone.

(3) Stations provided at the above rates are installed on the premises on which the private branch exchange switchboard is located. Stations will be installed off the premises on which the switchboard is located, at the above rates plus mileage as provided in Schedule No. A-5, provided they are installed on premises of the subscriber, are for his use and are within satisfactory transmission limits.

EXCHANGE SERVICE—SCHEDULE No. A-3-b.**TAFT EXCHANGE.****Commercial Private Branch Exchange Flat Rate Service.**

Applicable to commercial private branch exchange flat rate service in connection with subscriber owned and maintained switchboard located within the primary rate areas of the Taft exchange.

Rate.	Service	Per month
Each battery supply circuit-----		\$3 00
Each ringing supply circuit-----		3 00
First both way trunk line-----		7 50
Each additional both way trunk line-----		6 00
Station charge		
Each subscriber owned service station-----		25

Conditions.

(1) Trunk lines, battery supply circuit and ringing supply circuit will be furnished to subscriber owned switchboards located outside the primary rate areas but within the exchange area, at the above rates plus a charge of \$1 per month for each circuit furnished.

(2) Service stations connected to subscriber owned and maintained private branch exchange systems are installed on the subscriber's premises and are for the use of the subscriber.

EXCHANGE SERVICE—SCHEDULE No. A-3-c.**McKITTRICK EXCHANGE.***Commercial Private Branch Exchange Flat Rate Service.*

Applicable to commercial private branch exchange flat rate service furnished within the primary rate area of the McKittrick exchange.

Rate.

Service	Per month
Each switchboard position, including operator's set.....	\$5 00
Each battery supply circuit.....	3 00
Each ringing power supply circuit.....	3 00
First both way trunk line.....	6 75
Each additional both way trunk line.....	5 25
Each station, primary or extension, wall set.....	75
Each station, primary or extension, desk set.....	1 00

Conditions.

(1) Private branch exchange service will be provided outside the primary rate area but within the exchange area at the above rates plus a charge of \$1 per month for each trunk line, battery supply circuit, and power supply circuit.

(2) Each private branch exchange system will consist of at least one switchboard position, two (2) trunk lines and four (4) stations, exclusive of the switchboard telephone.

(3) Stations provided at the above rates are installed on the premises on which the private branch exchange switchboard is located. Stations will be installed off the premises on which the switchboard is located, at the above rates plus mileage as provided in Schedule No. A-5, provided they are installed on premises of the subscriber, are for his use and are within satisfactory transmission limits.

EXCHANGE SERVICE—SCHEDULE No. A-3-d.**McKITTRICK EXCHANGE.***Commercial Private Branch Exchange Flat Rate Service.*

Applicable to private branch exchange flat rate service in connection with subscriber owned and subscriber maintained switchboard located within the primary rate area of the McKittrick exchange.

Rate.

Service	Per month
Each battery supply circuit.....	\$3 00
Each ringing supply circuit.....	3 00
First both way trunk line.....	6 75
Each additional both way trunk line.....	5 25
Station charge	
Each subscriber owned service station.....	25

Conditions.

(1) Trunk lines, battery supply circuit and ringing power circuit will be furnished to subscriber owned switchboards located outside the primary rate area but within the exchange area, at the above rates plus a charge of \$1 per month for each circuit furnished.

(2) Service stations connected with subscriber owned and maintained private branch exchange systems are installed on the subscriber's premises and are for the use of the subscriber.

EXCHANGE SERVICE—SCHEDULE No. A-4-a.**TAFT EXCHANGE.***Total Private Branch Flat Rate Service.*

Applicable to hotel private branch exchange flat rate service furnished within the several primary rate areas of the Taft exchange.

Rate.

Service	Per month
Switchboard, including operator's set, battery supply circuit, ringing power circuit and not to exceed 15 station terminals, each position.....	\$5 00
Each additional group of 5 terminals or less.....	20
First both way trunk line.....	6 50
Each additional both way trunk line.....	5 50

Stations	
1 to 10, wall sets in guest room, per station-----	\$0 50
11 to 20, wall sets in guest room, per station-----	45
21 to 35, wall sets in guest room, per station-----	40
36 to 50, wall sets in guest room, per station-----	35
51 and over, wall sets in guest room, per station-----	25
Desk sets, 25 cents per month additional.	
Each wall set not in guest room-----	75
Each desk set not in guest room-----	1 00

Conditions.

(1) Each hotel private branch exchange system will consist of at least one (1) switchboard position, two (2) trunk lines and ten (10) stations, exclusive of the switchboard telephone.

(2) Stations, not in guest rooms, provided at the above rates are installed on the premises on which the switchboard is located. Stations will be installed off the premises where the hotel private branch exchange is located, within the exchange area, at the above rates plus mileage as provided in Exchange Service Schedule No. A-5, provided they are for use of the subscriber, are located on the subscriber's premises and are within satisfactory transmission limits.

EXCHANGE SERVICE—SCHEDULE No. A-4-b.**TAFT EXCHANGE.****Hotel Private Branch Flat Rate Service.**

Applicable to hotel private branch exchange flat rate service in connection with subscriber owned and maintained switchboard located within the primary rate areas of the Taft exchange.

Service	Per month
First both way trunk line-----	\$6 50
Each additional both way trunk line-----	5 50
Station charge	
Each subscriber owned service station-----	25

Conditions.

Service stations connected to subscriber owned and maintained private branch exchange systems not located in guest rooms are installed on the subscriber's premises and are for the use of the subscriber.

EXCHANGE SERVICE—SCHEDULE No. A-5.**Mileage Charges.**

Applicable to private branch exchange stations installed off the premises on which the switchboard is located, throughout the territory served.

Rate.	Rate per each one-quarter mile or fraction thereof per month
Each station, primary or extension-----	\$0 75

The above rate is based on airline mileage as measured between the station and the premises on which the private branch exchange switchboard is located. The above rate is in addition to other charges for the service.

EXCHANGE SERVICE—SCHEDULE No. A-6.**TAFT EXCHANGE.****Semi-Public Coin Box Service.**

Applicable to semi-public coin box service furnished within the primary rate areas of the Taft exchange.

Rate.	
(a) Individual line wall set:	
Each exchange message-----	5 cents
Minimum charge-----	20 cents per day
(b) Individual line desk set:	
The above rate plus 25 cents per month.	
(c) Extension stations:	
Each extension station, wall set, without coin box-----	\$0 75 per month
Each extension station, desk set, without coin box-----	1 00 per month

Conditions.

(1) Semi-public coin box service will be furnished in semi-public locations.

(2) The charge resulting from the application of the desk set rate (b) or the extension rate (c) does not apply against the minimum charge in rate (a).

EXCHANGE SERVICE—SCHEDULE No. A-7.**Public Pay Station Service.**

Service from company's non-listed public telephone stations.

Rate.	
Each exchange message-----	\$0 05

Conditions.

Public telephones will be installed by the company at its discretion, in public locations, to meet the general and transient telephone requirements.

EXCHANGE SERVICE—SCHEDULE No. A-8.**Private Line Service.**

Applicable to private lines provided within the territory served.

Rate.	Per month
Each one-quarter mile or fraction thereof, airline mileage-----	\$0 75
Each telephone and battery:	
Wall set -----	75
Desk set -----	1 00
Minimum charge:	
Monthly minimum charge -----	3 50

Conditions.

(1) Private lines are provided within the territory served, solely for communication between stations thereon, and are not permitted to be connected to exchange service lines.

(2) The above rates include installation and battery renewals.

EXCHANGE SERVICE—SCHEDULE No. A-9.**Joint User Service.**

Applicable to joint user service furnished within the exchange area of all exchanges.

Rate.	Per month
Individual or party-line business flat rate service-----	\$1 50
Business commercial flat rate private branch exchange service-----	1 50
Business hotel flat rate private branch exchange service-----	1 50

Conditions.

(1) The applicability of joint user service is determined by the obvious or actual use made of the service.

(2) The rate for joint user service includes a listing in the telephone directory and applies in addition to the rates and charges for the facilities and all other service provided. Joint user service is applicable and is furnished upon applications made by the subscriber as follows:

(a) Applications for the use of the subscriber's service by any individual, firm, company or association occupying jointly or in part the premises on which the private branch exchange switchboard or receiving station is located. The subscriber's facilities or service are not to be extended off the premises to provide joint user service.

(b) Applications for the use of the subscriber's service for another business conducted by the subscriber and differing in character and subject to a different classification from that for which the facilities are provided.

(3) In the case of individuals, firms, companies and associations engaged in the same business or profession, utilizing a common reception room with offices opening thereon or adjoining thereto, one of the number may become the subscriber and the remainder joint users. If the individuals or members of a firm, company or association file a joint income tax return, that will be accepted as sufficient evidence of a single business, and joint user service is not applicable. Whenever any individual member of a firm, company or association does not substantially participate in the earnings of his fellow members of such firm, company or association, then that fact shall be conclusive evidence that he is a joint user and the joint user rate is applicable.

(4) The minimum charge for joint user service shall be the monthly rate, provided that if the service is listed in the telephone directory, it shall be paid for until the end of the directory period unless the joint user vacates the subscriber's premises or the subscriber's service is discontinued or the joint user becomes a subscriber to business service in the same exchange, but in no case shall the charges continue more than six months after the listing has appeared in the directory and has been ordered discontinued.

EXCHANGE SERVICE—SCHEDULE No. A-10.**Directory Listings.**

Applicable to directory listings in addition to those which are provided under the regular rates for service:

Rate.	Service	Per month
Member of same firm or business, each listing-----		\$0 25
Any individual residing at a residence listed at the residence, each listing-----		25
Listing of guest of hotel, each listing-----		50
Any information in addition to a listing, each line-----		25

Conditions.

Additional listings at the above rates will be provided in accordance with the provisions governing directory listings as set forth in Rule and Regulation No. 14.

EXCHANGE SERVICE—SCHEDULE No. A-11.

Supplemental Equipment.

Applicable to supplemental equipment throughout the territory served.

Rate.	Installation charge	Rate per month
Ordinary extension bell-----	\$1 25	\$0 25
Ordinary extension bell, with switch-----	1 35	50
Loud ringing extension bell-----	1 50	50
Loud ringing extension bell, with switch-----	1 50	75
Loud ringing extension bell, subscriber installed and owned-----	None	25
Booth-----	5 00	1 50
Telecode relay and signal-----	*	75

* Telecode relay and signal will be furnished and installed by the company, the actual cost thereof to be paid by the subscriber. Ownership of the relay, which is connected to the company's lines, shall be vested in the telephone company, all other apparatus and wiring to remain the property of the subscriber. The telephone company will maintain the entire apparatus.

EXHIBIT "B."

TOLL AND TELEGRAPH SERVICE RATES.

TOLL SERVICE SCHEDULE No. B-1.

General Service.

The following listed rates are applicable to station-to-station, person-to-person and appointment and messenger interexchange toll service over the lines of the Kern Mutual Telephone Company.

Rate.

(A) Base rates station-to-station day service, initial rates between any two of the following points:

		Between			
and	Bakersfield	Taft	Maricopa	Fellows	McKittrick
Bakersfield -----		\$0 25	\$0 25	\$0 25	\$0 30
Taft -----	\$0 25	--	--	--	15
Maricopa -----	25	--	--	--	15
Fellows -----	25	--	--	--	15
McKittrick -----	30	15	15	15	--

Initial period and overtime period, station-to-station day service:

Where the initial rate is	The initial period is	The overtime period is
\$0 15	5 min.	2 min.
25	5 min.	1 min.
30	3 min.	1 min.

Overtime rate station-to-station day service:

Where the initial rate is	The overtime rate is
\$0 15	\$0 05
25	05
30	10

(B) Person-to-person, and appointment and messenger rate and report charge.

Rate for initial period of three minutes or less

When the station-to-station day rate is	The completed person-to-person rate is	The completed appointment and messenger rate is	The report charge is
\$0 15	\$0 20	\$0 25	\$0 10
25	30	35	10
30	40	45	10

Rates for periods in excess of the initial three-minute period:

Where the initial rate is	The overtime period is	The overtime rate is
\$0 20	1 min.	\$0 05
25	1 min.	05
30	1 min.	10
35	1 min.	10
40	1 min.	10

(C) Station-to-station evening and night rates.

When the station-to-station day rate is	The rate between 8.30 p.m. and 12 midnight is	The rate between 12 midnight and 6.30 a.m. is
\$0 15	Day rate	Day rate
25	Day rate	Day rate
30	\$0 25	\$0 25

(D) Toll rates for service to points on lines of connecting companies.

The above rates are in addition to the rates and charges of connecting companies for service furnished jointly over lines of Kern Mutual Telephone Company and the connecting companies' lines.

TELEGRAPH SERVICE—SCHEDULE No. C-1.

General Service.

Applicable to telegraph service between points as listed below:

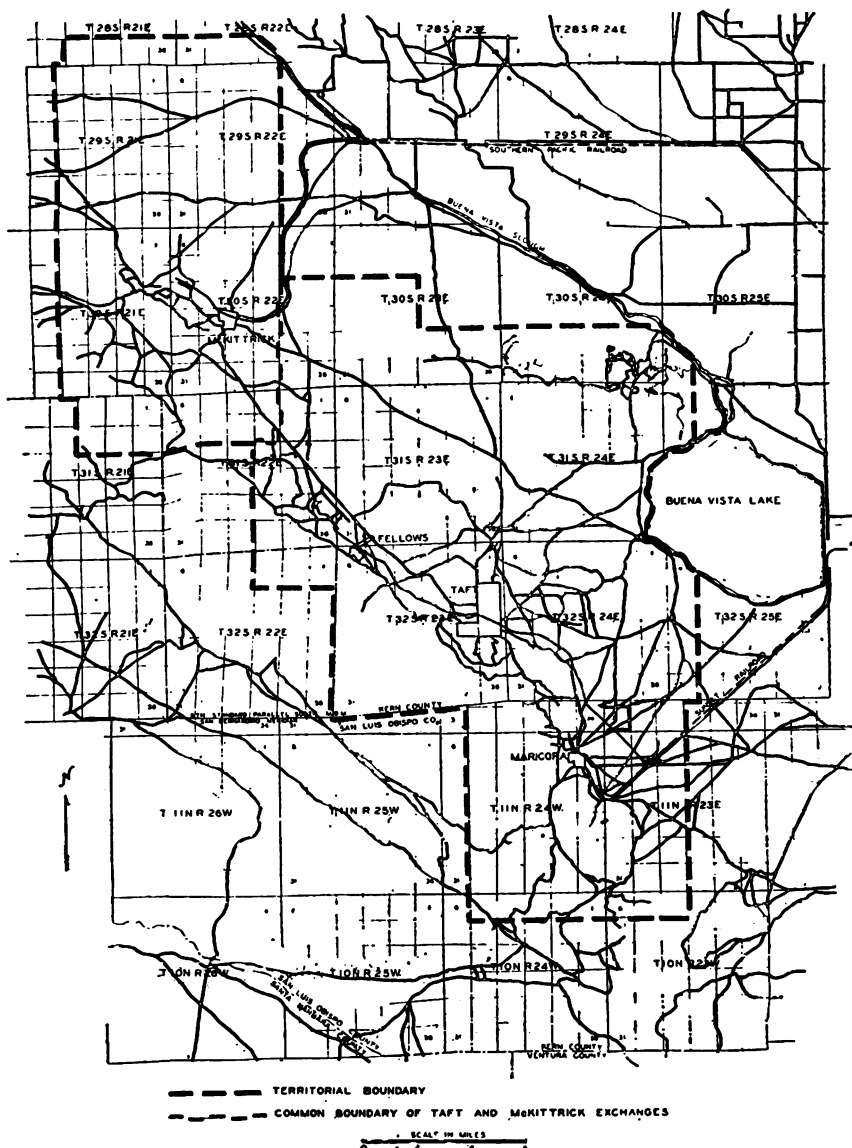
Telegrams	First 10 words or less	Each additional word
Between Bakersfield and		
East	\$0 25	\$0 02
Maricopa	25	02
Yellows	25	02
McKittrick	25	02
Between McKittrick and		
Bakersfield	25	02
East	25	02
Maricopa	25	02
Yellows	25	02

The charge applicable to telegraph messages between any point on the lines of connecting companies and a point on the lines of the Kern Mutual Telephone Company is the sum of the connecting company's or companies' rates between the distant point and Bakersfield and the rates of the Kern Mutual Telephone Company as shown above.

MAPS.

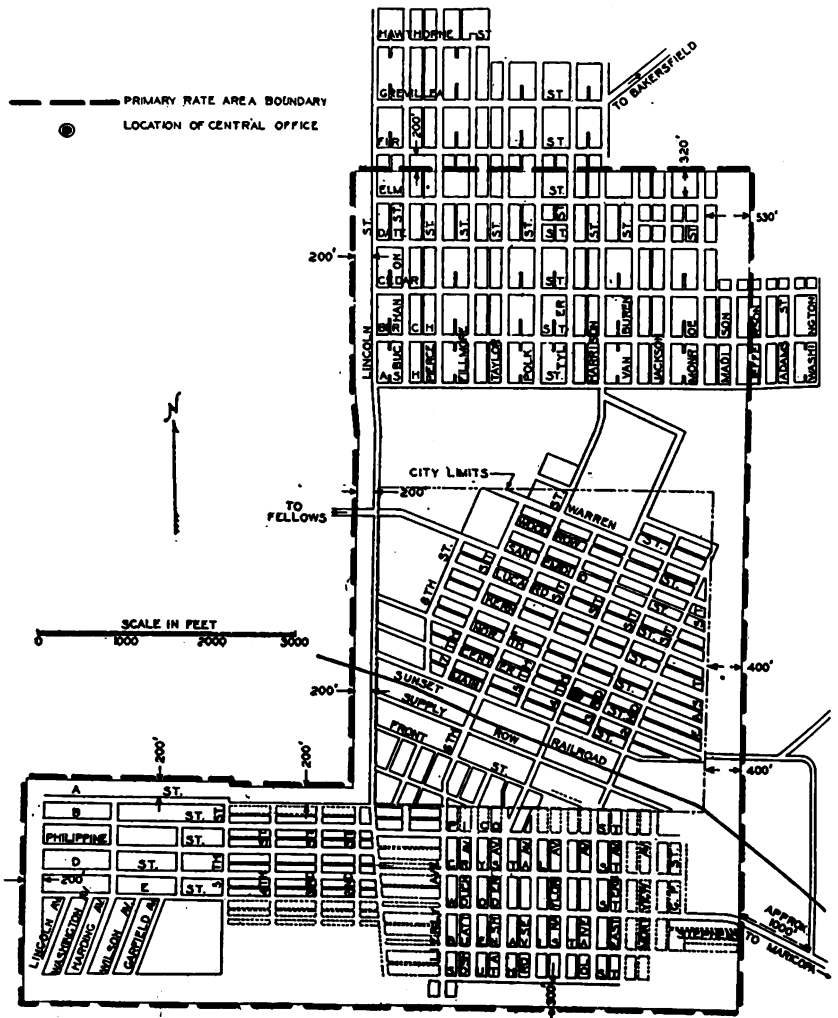
CALIFORNIA RAILROAD COMMISSION

MAP SHOWING
BOUNDARIES OF TERRITORY SERVED
AND
TAFT AND MCKITTRICK EXCHANGE AREAS
KERN MUTUAL TELEPHONE COMPANY



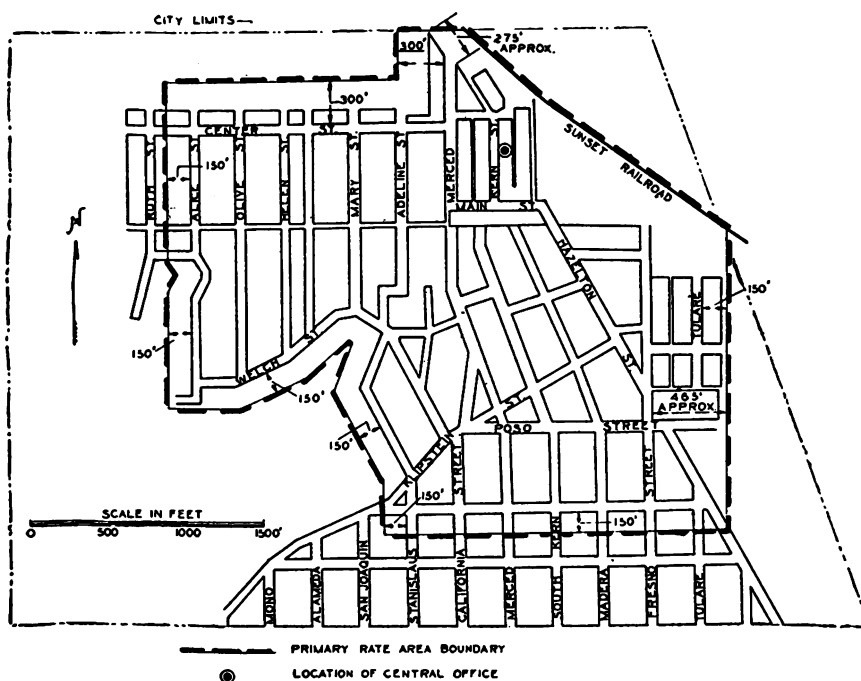
CALIFORNIA RAILROAD COMMISSION

MAP SHOWING
 TAFT PRIMARY RATE AREA BOUNDARY
 KERN MUTUAL TELEPHONE COMPANY

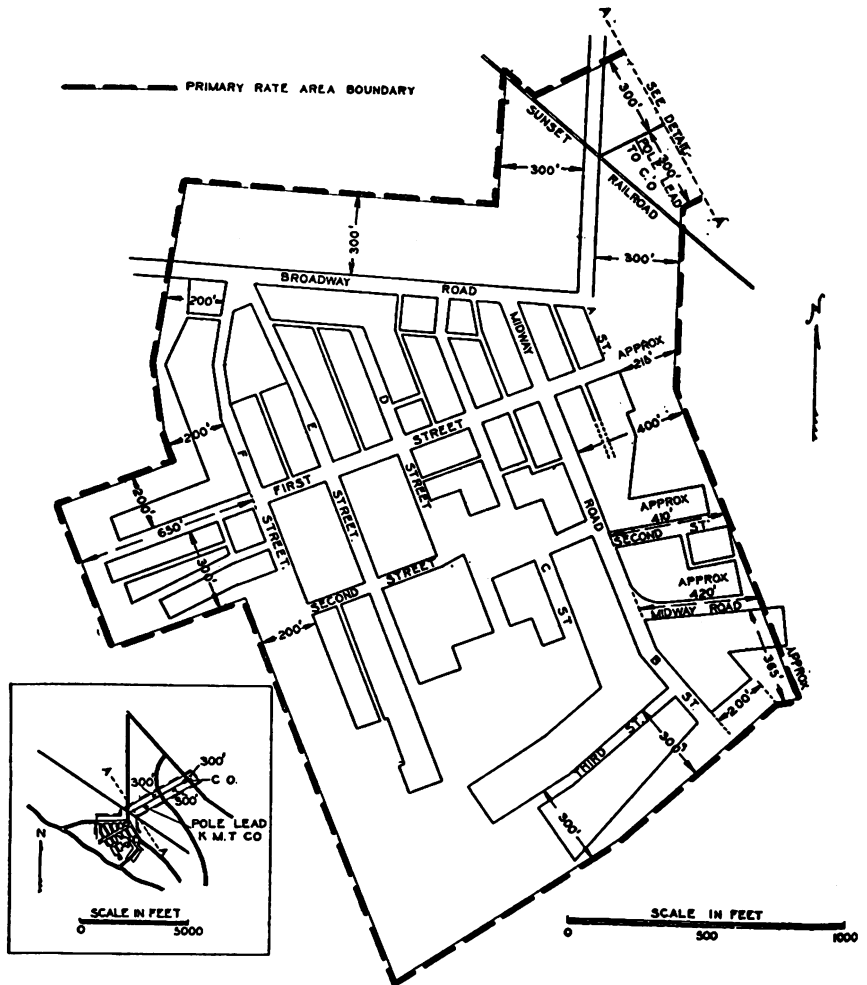


CALIFORNIA RAILROAD COMMISSION

MAP SHOWING
 MARICOPA PRIMARY RATE AREA BOUNDARY
 KERN MUTUAL TELEPHONE COMPANY



KERN MUTUAL TELEPHONE COMPANY



CALIFORNIA RAILROAD COMMISSION

MAP SHOWING
McKITTRICK PRIMARY RATE AREA BOUNDARY
KERN MUTUAL TELEPHONE COMPANY

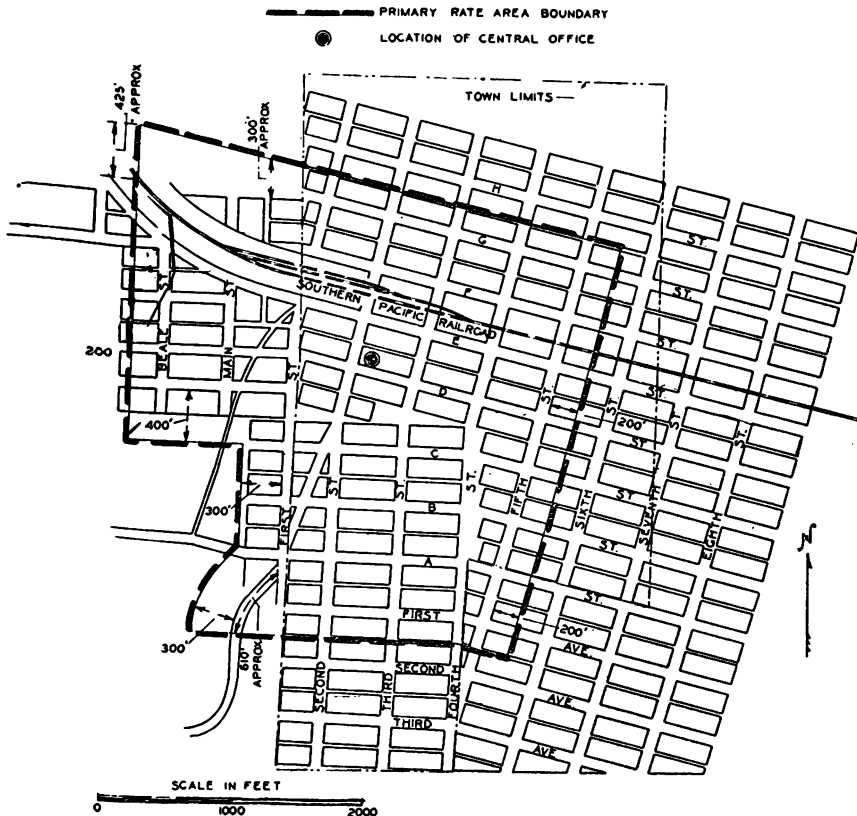


EXHIBIT "D."

RULES AND REGULATIONS.

DEFINITIONS.

Certain terms and phrases used in the following rules and regulations have the meaning as given in the definitions set forth below.

1. Exchange.

An exchange consists of one or more central offices, usually located in the same city, town or village, forming a local system providing local service between the subscribers in said city, town or village, or contiguous thereto, at rates established for that area.

2. Exchange Area.

The exchange area for any particular exchange is the total area within which the company holds itself out to furnish exchange telephone service from central offices serving that area.

3. Primary Rate Area.

The primary rate area is an area which comprises the more congested territory within an exchange area in which the primary rates without mileage apply.

4. Suburban Area.

The suburban area is that portion of the exchange area located outside or beyond the boundary of the primary rate area.

5. Exchange Service.

Exchange service is telephone service furnished between subscribers within an exchange area.

6. Toll Service.

Toll service is telephone service from one exchange or toll station to another exchange or toll station.

7. Telephone Service.

Telephone service is service including both exchange and toll service.

8. Flat Rate Service.

Flat rate service is unlimited exchange service furnished for a fixed periodic charge.

9. Coin Box Service.

Coin box service is exchange service furnished from coin boxes, which requires a cash payment for each outgoing message.

10. Business Service.

Business service is exchange service furnished individuals engaged in a business, firms, partnerships, corporations, agencies, shops, works, tenants of office buildings, hotels receiving individual or party line service and individuals conducting any business or practicing a profession having no other office than their residence, where the actual or obvious use is for business purposes.

11. Residence Service.

Residence service is exchange service furnished subscribers at their residences or places of dwelling, where the actual or obvious use is for domestic purposes.

12. Individual Line Service.

Individual line service is exchange service furnished to a subscriber by means of an individual primary station connected to an individual line.

13. Party Line Service.

Party line service is exchange service furnished to a subscriber by means of a primary station connected to a line to which other primary stations may be permanently connected, all of which have access to that line.

14. Suburban Service.

Suburban service is a ten-party line service furnished within the suburban area, unless otherwise specified in the rate schedule.

15. Farmer Line Service.

Farmer line service is exchange service furnished in the suburban area where the lines are built, owned and maintained by individuals and join the company's line at the boundary of the primary rate area or the city limits, in case the latter boundary is located a greater distance from the central office than the former. The connection of these lines with the exchange serving them is made at the company's central office and the subscribers are exchange subscribers.

16. Private Branch Exchange Service.

Private branch exchange (P. B. X.) service is that exchange service furnished by means of trunk lines from the company's central office and branch switchboard, primary and extension stations located on the subscriber's premises and operated by the subscriber.

(a) Hotel Private Branch Exchange Service.

Hotel P. B. X. service is P. B. X. service furnished to hotels, rooming and apartment houses, or to such portion of buildings in which rooms are let to the public for living quarters.

(b) Commercial Private Branch Exchange Service.

Commercial P. B. X. service is P. B. X. service furnished to a business (except hotels) as referred to in Definition No. 10.

17. Intercommunicating Service.

Intercommunicating service is exchange service furnished to a subscriber by means of intercommunicating equipment which is so arranged that each station of that equipment may make connection with the various stations of its own system and also with the company's central office.

18. Private Interior System.

Private interior system consists of telephone equipment furnished strictly within the confines of subscriber's premises, where the system as a whole is not connected to the company's central office. Any individual station on a private interior system may, however, receive exchange service through the company's central office by the necessary additional equipment provided under the published rates for such a service.

19. Premises.

A premises is that portion of an individual house or building entirely occupied by one family, one flat or apartment occupied by one family or any room of an office building, or two or more adjoining or opposite rooms of an office building, or two or more adjoining floors of an office building, providing all rooms on those floors are occupied by the same applicant or subscriber.

20. Ownership of Premises.

Ownership of a premises will be established after a certificate is submitted to the effect that the premises is owned by the subscriber.

21. Applicant.

An applicant is a party applying for telephone service.

22. Subscriber.

A subscriber is a party who is receiving either partial or complete telephone service.

23. Emergency.

An emergency exists in connection with an application for service in case of serious sickness or where public safety or public need is involved.

24. Member of a Firm or Business.

Individuals, firms, companies or associations engaged in the same business or profession on one premises, receiving service from the same facilities, are considered as members of a firm or business if the individuals or members of the firm, company or association file a joint income tax return and also if any individual member of a firm, company or association substantially participates in the earnings of his fellow members of such firm, company or association.

25. Temporary Service.

Temporary service is service definitely known to be required for a short period (in general, less than twelve consecutive months), such as service to contractors for use during construction of a building, service to a circus, etc., of a temporary nature.

26. Speculative Project.

Speculative projects are those enterprises of speculative or hazardous nature.

27. Instrumentalities.

Instrumentalities are the telephone instruments located on a premises, excluding inside wiring, protective apparatus and drop wire. In case of a P. B. X., the instrumentalities include the switchboard and telephone instruments.

28. Temporary Disconnect.

A service is temporarily disconnected when either incoming or outgoing service, or both, are denied by the company, but the telephone facilities are held available for the subscriber of that service.

29. Permanent Disconnect.

A service is permanently disconnected when both incoming and outgoing service is denied by the company, either through removal of telephone instrument or when the use of the facilities is made available for another subscriber.

30. Date of Presentation.

The date of presentation of a bill or notice from the company to any party is the date upon which that bill or notice is properly addressed and mailed, postage prepaid, in a sealed envelope to that party, or when delivered in person, the date upon which that bill or notice is given to that party.

31. Primary Station.

A primary station is the main telephone station (excluding extension stations) of a subscriber's service. In case of a private branch exchange, the primary station includes all the subscriber's private branch exchange stations (excluding extension stations).

32. Extension Station.

An extension station is an additional station connected to a primary station, both of which use the same circuit to the central office, and, in the case of the private branch exchange, the extensions to the primary stations.

33. Supersedure.

A supersedure of a service means the transfer of a service, including the telephone number, from one party to another.

34. Line Extension.

A line extension is the outside plant required in addition to existing facilities to render telephone service, and excludes instrumentalities, inside wiring, protective apparatus and drop wire.

RULE AND REGULATION No. 1.**Description of Service.****A. General.**

The company renders exchange telephone service throughout the territory served by it, as shown in maps filed with its schedule of rates. There is available to the subscriber for his use toll service with connecting companies.

The company furnishes manually operated telephones.

The exchange areas are divided into primary rate areas, comprising the more congested portions of the territory served, and suburban areas the territory served surrounding or beyond the primary rate areas.

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B. Service.

The company renders service, within the primary rate areas and suburban areas, under its effective rate schedules, and in general, as follows:

1. Class of service.

The following classes of service are furnished:

- a. Business service.
- b. Residence service.

2. Type of service.

The following types of service are furnished:

- a. Flat rate service.
- b. Coin box service.

3. Grade of service.

In general, the following grades of service are furnished:

Grade of service	Area applicable
a. Individual line-----	P. R. A. and S. A.
b. Two- and four-party line-----	P. R. A. and S. A.
c. Private branch exchange: Commercial-----	P. R. A. and S. A.
Hotel-----	P. R. A.

NOTE.—P. R. A.—Primary rate area.
S. A.—Suburban area.

Individual and party line business and residence service is rendered in the suburban areas under conditions set forth in Exchange Service Schedules Nos. A-1-a and A-1-b.

Miscellaneous service, including private lines and supplemental equipment, is furnished by the company under its schedule of rates.

Service is furnished at the base rates associated in the exchange service schedules where the stations of the subscribers are on the premises in which the primary stations, private branch exchange switchboard or receiving station is located.

The application of business and residence rates to private and public telephone service is governed by the actual or obvious use made of the service by the subscriber. If residence service is found to be used largely or principally for business purposes, the company will provide business service, except in cases where the subscriber will thereafter use the service for domestic or social requirements.

C. Extension Stations.**1. Number.**

The following is the maximum number of extension stations which will be connected to a primary station:

Grade of service	Maximum number of extension stations
Individual-----	3
Two-party-----	1 per service
Four-party-----	1 per service

2. Location outside premises.

Extension stations for business or residence service will be installed outside the premises in which the primary station is located provided they are for use by the subscriber only and are located on the subscriber's premises and are within satisfactory transmission limits.

D. Private Branch Exchange Service.**1. Commercial service.**

Private branch exchange switchboards consist of at least one position, two trunk lines and four stations, excluding switchboard telephone.

One or two position cord switchboards will be provided with a transmitter attached to the switchboard and a detachable single head receiver. An operating set, consisting of a single head receiver and chest type transmitter, will be provided for switchboards of two or three positions, when requested, without additional charge. Operators' chairs will be provided with each multiple switchboard. The switchboards will be provided in a standard finish at the time of installation.

2. Hotel service.

Private branch exchange switchboards will consist of at least one position, two trunk lines and ten stations, excluding switchboard telephone.

One or two position cord switchboards will be provided with a transmitter attached to the switchboard and a detachable single head receiver.

Switchboards exceeding three positions are provided with detachable operators' sets consisting of a single head receiver and chest type transmitter.

The operators' sets will be provided for switchboards of two or three positions, if requested, without additional charge. Operators' chairs will be provided with each multiple switchboard. Switchboards will be provided in standard finish at the time of installation.

E. Private Lines.

Private lines will be provided solely for communication between stations thereon, and will not be connected with the company's exchange service lines.

RULE AND REGULATION No. 2.**Application for Service.**

The company will require each applicant to sign an application for the service desired, on a form provided by the company, as a condition precedent to the initial establishment of such service.

The application for initial service shall set forth:

- a. Listing as it is to appear in the telephone directory.
- b. Classified heading in telephone directory.
- c. Additional listings as they are to appear in telephone directory.
- d. Service desired.

- e. Purpose for which service is to be used.
- f. Whether facilities are in place on premises where service is desired.
- g. Whether applicant is the owner of the premises.
- h. Date applicant will be ready for service.
- i. Address to which bills are to be mailed or delivered.
- j. Date of application.
- k. Signature of applicant.
- l. Such other information as the company may reasonably require.

The company may require written application from a subscriber for additions to or changes in the existing service of such subscriber.

An application is merely a request for service and does not in itself bind the company to serve except under reasonable conditions, nor does it bind the applicant to take service.

An application for service canceled by the applicant or the company prior to the establishment of the service applied for is subject to the following conditions:

(A) Canceled by Applicant.

1. If cancellation is requested by applicant prior to the time instrumentalities are installed on applicant's premises, the application will be canceled by the company and no charge will be made against the applicant except as specifically covered by written contract as provided for in these rules and regulations.

2. If cancellation is requested by applicant subsequent to the time instrumentalities are installed on applicant's premises but not connected for service, the application will be canceled by the company, and the company will collect the service connection charge applicable to the instrumentalities actually installed at the time of requested cancellation, or such other amounts as may be specifically provided for by written contract previously made in accordance with these rules and regulations.

3. If cancellation is requested by the applicant subsequent to the time instrumentalities are installed on applicant's premises and connected for service, such cancellation being in effect a regular discontinuance of service, the conditions of the above paragraph (A-2) and the minimum requirements of the rate will be applicable.

(B) Canceled by Company.

If applicant refuses to comply with the company's rules and regulations prior to the establishment of service, the company may cancel the application, in which case any amounts collected from the applicant will be refunded.

RULE AND REGULATION No. 3.

Rates and Optional Rates.

The rates to be charged by and paid to the company for telephone service will be the rates legally in effect and on file with the Railroad Commission of the State of California. Complete schedules of all rates for exchange service in effect for any district will be kept at all times in the company's local business office for that district, where they will be available during regular business hours for public inspection.

Where there are two or more rate schedules applicable to any class of service, the company, or its authorized employees, will call applicant's attention at the time application is made to the several schedules, and the subscriber will be required to designate which rate or schedule he desires.

In the event of the adoption by the company of new or optional schedules of rates, the company will take such measures as may be practicable to advise those of its subscribers who may be affected that such new or optional rates are effective.

In the event that a subscriber desires to take service under a different schedule than that under which he is being served, the change will become effective on the day the change is completed.

RULE AND REGULATION No. 4.

Special Information Required on Forms.

A. Contracts.

Each contract form for telephone service will contain the following provision:

This contract shall at all times be subject to such changes or modifications as the Railroad Commission of the State of California may from time to time direct in the exercise of its jurisdiction.

B. Bills.

1. Each regular monthly bill for telephone service will contain on the face or back thereof the following notation:

If this bill is not paid within fifteen days from date of presentation, service may be discontinued, in which event restoration will not be made until this bill has been paid.

2. Each regular annual bill for telephone service will contain on the face thereof the following notation:

If this bill is not paid within thirty days from date of presentation, service may be discontinued, in which event restoration will not be made until this bill has been paid.

3. Disputed bills.

Each regular bill for telephone service will contain on the face or back thereof the following:

In case of a dispute between the subscriber and the company as to the correct amount of a bill rendered by the company for service furnished to the subscriber, which can not be adjusted with mutual satisfaction, the subscriber may deposit with the Railroad Commission of the State of California the amount claimed by the company to be due. Upon receipt of said deposit, the Commission will investigate the facts and communicate its findings to the parties.

Failure on the part of the subscriber to make such deposit within fifteen days after notice by the company that such deposit must be made or service may be discontinued, shall warrant the company in discontinuing service without further notice.

4. When the notices referred to under 1, 2 and 3 above are on the back of the bill, then the phrase "See other side" will appear on the face of the bill.

C. Deposit Receipts.

Each receipt for a deposit collected for the establishment of credit will contain the following provision on the face thereof:

This deposit may be applied, in so far as necessary, in payment of all charges for the telephone service which it guarantees, when such charges remain unpaid after notice in accordance with the company's rules and regulations on file with the Railroad Commission of the State of California that they are due and payable.

This deposit, less the amount of any unpaid bills for telephone service, will be refunded together with any interest due at 6 per cent per annum, upon discontinuance of service or after the deposit has been held for twelve consecutive months, provided service has been continuous and all bills for such service have been paid in accordance with the rules and regulations as approved by the Railroad Commission of the State of California.

If service is terminated before the expiration of twelve months from the date thereof, the deposit will be refunded without interest upon payment of all charges then due.

RULE AND REGULATION No. 5.

Establishment and Reestablishment of Credit.

Each applicant for service will be required to establish his credit before service will be rendered.

A. Establishment of Credit.

1. Flat Rate Exchange Service.

Credit of an applicant will be established upon the advance payment before establishment of service, of the charge for service for the period for which bills are regularly rendered as specified in the rate schedule.

2. Coin Box Exchange Service.

Credit of an applicant will be established when the conditions of any one of the following provisions is met:

(a) If applicant is the owner of the premises upon which the company is requested to furnish service, or is the owner of other real estate within the exchange area in which service is requested.

(b) If the applicant makes a cash deposit with the company to secure the payment of bills for telephone service to be furnished by the company under the application, as provided in Rule and Regulation No. 6 herein contained.

(c) If the applicant furnishes a guarantor satisfactory to the company for payment to the company of bills of applicant for telephone service to be furnished by the company under the application.

(d) If the applicant is a subscriber to service in the same exchange in which the changed, additional or new service is applied for and has paid all bills for service on the average within the period set forth in Rule and Regulation No. 11-A, for a period of twelve consecutive months immediately prior to the date when the application for the changed, additional or new service is made upon the company.

(e) If the applicant has previously been a subscriber of the company in the exchange in which service is applied for and has paid all bills for service on the average within the period as set forth in Rule and Regulation No. 11-A, for a period of twelve consecutive months immediately prior to the date when the applicant for service previously ceased to take service from the company, provided such service occurred within two years from the date of the new application for service.

3. Toll Service.

An applicant's credit for toll service will be established when that applicant has established his credit for exchange service.

B. Reestablishment of Credit.

1. All Types of Service.

(a) An applicant for telephone service who has been a subscriber of the company and whose service has been permanently discontinued for failure to pay a bill for telephone service (of the same class as being applied for), within the period as set forth under Rule and Regulation No. 11-A, within a twelve-month period prior to the last date upon which the applicant received service, provided the date of discontinuance occurred within a period of two years prior to the date of application, may be required, before service is resumed, to reestablish his credit by making a cash deposit in an amount not to exceed a sum equal to the average periodic bill for that service.

(b) A subscriber for telephone service who fails to pay his bill for telephone service, as provided in Rule and Regulation No. 11-A, and who further fails upon second notice of not less than five (5) days to pay said bill within the time required by the second notice, may be required to pay said bill and to reestablish his credit by making a cash deposit in an amount not to exceed a sum equal to the average periodic bill for that service.

(c) A subscriber whose service has been temporarily disconnected for failure to pay a bill for telephone service, as provided in Rule and Regulation No. 11-A, may be required before service is resumed, to reestablish his credit by making a cash deposit in an amount not to exceed a sum equal to the average periodic bill for that service.

RULE AND REGULATION No. 6.**Deposits.****A. Establishment of Credit.****1. Flat Rate Exchange Service.**

No deposits from applicants for flat rate exchange service will be required for the establishment of credit.

2. Coin Box Exchange Service.

The amount of deposit for the establishment of credit for coin box exchange service will be an amount equal to the minimum monthly charge for that service.

B. Reestablishment of Credit.

The amount of the deposit required from an applicant or subscriber to reestablish credit for telephone service, as set forth in Rule and Regulation No. 5-B, or from any subscriber whose service has been discontinued for nonpayment of bills, or who has failed to pay bills upon second notice, in time required by second notice, which will not be less than five days, shall not exceed a sum equal to the average periodic bill for that telephone service.

C. Other Deposits.

The amount of deposit required for purposes other than the establishment and reestablishment of credit will in each case be in accordance with the terms of the contract as may be provided for in the regular schedule of rates and these rules and regulations.

RULE AND REGULATION No. 7.**Return of Deposit—Interest on Deposit.****A. Return of Deposit Collected in Connection With Establishment and Reestablishment of Credit.**

The company will notify the subscriber in writing that his deposit is subject to return and will refund the deposit in accordance with the following provisions:

1. When the service is ordered discontinued by the subscriber, except when there are charges due the company for telephone service to the subscriber, in which case the deposit will be applied to the charges and the excess portion of the deposit will be returned.

2. When the deposit has been held for twelve consecutive months from the date of receipt thereof and exchange service has been continuous and all bills for telephone service have been paid in accordance with these rules and regulations.

3. When an application is canceled prior to the establishment of service.

B. Interest on Deposit Collected in Connection With Establishment and Reestablishment of Credit.

1. Interest at the rate of 6 per cent per annum will be paid on deposit held by the company for the first twelve consecutive months, provided service has been continuous and all bills for telephone service have been paid on the average within the period as set forth in Rule and Regulation No. 11-A, and for such additional time thereafter as the company may hold the deposit up to the date on which the subscriber is notified that the deposit is subject to return.

2. No interest will be paid on a deposit if that deposit is held for a period of less than twelve consecutive months.

C. Interest on Other Deposits.

1. Deposits collected for purposes other than the establishment or reestablishment of credit will in each case be refunded with interest, if any, in accordance with the terms of the contract as may be provided for in the regular schedule of rates and these rules and regulations.

RULE AND REGULATION No. 8.**Priority of Service Application and Supersedure.****A. Priority of Service Application.**

Application for service covered by the schedules of rates on file will be accepted by the company. The service requested will be rendered in accordance with the chronological order of their receipt in so far as practicable and in accordance with economical administration, except in the following cases, in which deviation shall be made in the following order in accordance with the facilities available to serve the applicant's premises:

1. Application for service in case of real emergency will be given priority over all other applications included under sections 2, 3 and 4 below.

2. Application where the instrumentalities are in place on the premises to which the application applies and where service to those instrumentalities has not been removed and facilities assigned to another subscriber will be given priority over all other applications included under sections 3 and 4 below.

3. Application of a party who has been a subscriber of the company within a one-month period immediately prior to the date of application will be given priority over other applications referred to under section 4 below.

4. Application for business service will be given priority over applications for residence service which have been held for a period of less than two months.

B. Supersedure.

An applicant may supersede the service of a subscriber discontinuing that service, only when the applicant is to take service on the premises where that service has been rendered and a written notice to that effect from both the subscriber and applicant is presented to the company. The applicant will be notified of any charges outstanding against the service and responsibility for payment thereof will be assumed by the applicant before the supersedure is permitted.

The installation of a service to an applicant when the instrumentalities are in place but where the telephone number of the outgoing subscriber is not to be transferred to

the incoming party, will be made in accordance with section A of this rule and regulation.

RULE AND REGULATION No. 10.

Rendering and Payment of Bills.

A. *Rendering of Bills.*

1. Flat Rate Exchange Service.

Bills for flat rate exchange service for the period specified in the rate schedule may be rendered in advance and are payable in advance.

2. Coin Box Exchange Service.

Bills for coin box exchange service for the period specified in the rate schedule will be rendered in arrears either monthly, fortnightly, or weekly, and are due and payable on date of presentation.

B. *Billing Period.*

Bills for exchange service will be rendered and coin boxes opened as nearly as possible at regular intervals. Except as otherwise stated, the regular billing period will be once each month.

C. *Payment of Bills.*

Payment of bills for telephone service shall be made at the office of the company or to a duly authorized collector of the company.

Removal bills, special bills, bills rendered on vacation of premises, or bills rendered to persons discontinuing exchange service will be payable upon presentation. Bills for service connection and deposits for the establishment or reestablishment of service must be paid before service will be installed or restored.

D. *Adjustment of Bills.*

Opening, closing and monthly bills for telephone service rendered for periods in excess of or less than a calendar month, will be prorated on the basis of the number of days in the period in question to the total number of days of that month or of an average month of thirty days, when the period in question involves a portion of more than one calendar month, providing, however, that when the total period for which service is taken is less than one month, the total charge for that service will not be less than the monthly minimum charge.

E. *Rates Applicable During Temporary Disconnection of Service for Nonpayment.*

When the company has the right to temporarily or permanently discontinue exchange service as provided by these rules and regulations, it may do either at its option.

Service temporarily disconnected will be charged for in accordance with the regular rates for a period not to exceed fifteen (15) days subsequent to the date of temporary disconnection.

RULE AND REGULATION No. 11.

Discontinuance of Service.

A. *Nonpayment of Bills.*

1. Flat Rate Exchange Service.

Flat rate exchange service of a particular service, separately served and billed, may be temporarily or permanently discontinued for the nonpayment of that bill, providing that bill therefor has not been paid within

Thirty calendar days after presentation, when bills are normally made out yearly;

Fifteen calendar days after presentation, when bills are normally made out monthly;

Seven calendar days after presentation, when bills are normally made out fortnightly;

Four calendar days after presentation, when bills are normally made out weekly;

but in no case less than the above described number of days after the first day of service covered by that bill.

2. Coin Box Exchange Service.

Coin box exchange service to a particular installation, separately served and billed, may be temporarily or permanently discontinued for the nonpayment of a bill for the service rendered thereto, provided that the bill therefor has not been paid within

Thirty calendar days after presentation, when bills are normally made out yearly;

Fifteen calendar days after presentation, when bills are normally made out monthly;

Seven calendar days after presentation, when bills are normally made out fortnightly;

Four calendar days after presentation, when bills are normally made out weekly;

except in case a deposit to guarantee bills has been made, in which case the service will not be temporarily or permanently discontinued until the amount of the deposit has been fully absorbed.

3. Toll Service.

When a subscriber's exchange service is temporarily or permanently discontinued as provided for in these rules and regulations, the subscriber's toll service will also be discontinued.

When a subscriber fails to pay bills for toll service rendered in connection with a particular exchange service, telephone service may be temporarily or permanently discontinued, provided that the bill therefor has not been paid within

Fifteen calendar days after presentation, when bills are normally made out monthly;

Seven calendar days after presentation, when bills are normally made out fortnightly;

Four calendar days after presentation, when bills are normally made out weekly;

providing, that in case a deposit to guarantee bills has been made, the service will not be temporarily or permanently disconnected until the amount of the deposit has been fully absorbed; and further providing that in case of question or dispute regarding the correct amount of the bill, telephone service will not be discontinued.

In such a case, if such question or dispute can not be adjusted with mutual satisfaction, the subscriber may deposit with the Railroad Commission of the State of California the amount claimed by the company to be due, and failure upon the part of the subscriber to make such deposit within fifteen (15) days after notice by the company that such deposit must be made or service may be discontinued, shall warrant the company in discontinuing the service without further notice.

B. Service at a Previous Location.

A subscriber's telephone service may be temporarily or permanently discontinued for nonpayment of a bill for the same class (residence or business) rendered at a previous location served by the company, provided said bill is not paid within thirty days after the date of presentation at the new location.

D. Corrected Bills.

If the company renders a back bill to a subscriber for service received which has not theretofore been billed to the subscriber within a period of ninety days from the date service was rendered, and if the subscriber has paid bills for service subsequent to the period covered by the back bill and prior to the time of rendering the back bill, then the company will not discontinue the subscriber's service for the failure to pay that back bill if questioned or disputed by the subscriber.

E. Permanent Disconnection After a Temporary Disconnection.

If a subscriber's telephone service has been temporarily disconnected then that service will not be permanently disconnected until after a second notice of at least five days to the subscriber, stating that unless his credit is reestablished service will be permanently disconnected.

F. Unsafe Apparatus.

The company has the right of refusing to or ceasing to render telephone service to a subscriber if, at any time, any of the lines, appliances or apparatus on the subscriber's premises shall be unsafe, or if the use made of the service shall be prohibited or forbidden under any law or municipal ordinance or regulation (until such law, ordinance or regulation shall be declared invalid by a competent court of jurisdiction); and may refuse to render service until the subscriber shall have remedied the unsafe condition and complied with all laws, ordinances and regulations applicable thereto.

G. Abuse or Fraud.

The company has the right to refuse telephone service to any premises and at any time to discontinue telephone service if it finds it necessary to do so to protect itself against abuse or fraud.

H. Noncompliance with the Company's Rules.

The company may discontinue service if a subscriber fails to comply with any of the rules and regulations herein, provided such failure is not remedied within a reasonable time, after due written notice has been given, except as otherwise provided in the rules and regulations.

Except as provided by these rules and regulations, the company will not temporarily or permanently discontinue telephone service to any subscriber for violation of any rule or regulation except upon written notice of at least five days, advising the subscriber in what particular such rule or regulation has been violated for which telephone service will be discontinued if the violation is not remedied. This notice may be waived in cases of an emergency or in the event of the discovery of a dangerous condition on the subscriber's premises or in the case of the subscriber's utilizing the telephone service in such a manner as to make it dangerous for occupants of the premises, thus rendering the immediate discontinuance of service to the premises imperative.

I. Subscriber About to Vacate Premises.

The company will hold a subscriber about to vacate premises responsible for all service rendered until that subscriber shall give notice of his intended removal, specifying the date service is desired to be discontinued.

J. Service Not to Be Immediately Used.

The company may refuse the installation of service that is not to be used within a reasonable period after installation.

K. Abusive Language by Subscribers.

The company may discontinue the telephone service of any subscriber who uses vile, abusive or profane language, or impersonates any other individual with fraudulent intent, over any line connected to the company's system, after the subscriber has been advised of this fact.

• RULE AND REGULATION No. 12.

Disputed Bills.

In case of a dispute between the subscriber and the company as to the correct amount of a bill rendered by the company for telephone service furnished to the subscriber, which can not be adjusted with mutual satisfaction, the subscriber may deposit with the Railroad Commission of the State of California the amount claimed by the company to be due. Upon receipt of said deposit, the commission will investigate the facts and communicate its findings to the parties.

Failure on the part of the subscriber to make such deposit within fifteen days after notice by the company that such deposit must be made or service may be discontinued shall warrant the company in discontinuing the service without further notice.

RULE AND REGULATION No. 13.

Notices.

Any notice the company may give to a subscriber supplied with telephone service by the company may be given orally, unless otherwise provided by these rules and regulations, to the subscriber, or his authorized representative, or by written notice, either delivered at the address hereinafter described in this rule and regulation or properly deposited in any United States post office in the territory served by the company, postage prepaid, addressed to the subscriber at the subscriber's place of address specified in the subscriber's application for telephone service, or at such address as may subsequently be given by the subscriber to the company at its local business office.

Any notice from any subscriber to the company may be given orally, unless otherwise provided by these rules and regulations, to the company by the subscriber, or any authorized representative, at the company's local business office, or by written notice properly addressed and mailed to the company.

RULE AND REGULATION No. 14.

Directory Listings.

Listings in the alphabetical section of the telephone directory are intended solely for the purpose of identifying subscribers' telephone numbers as an aid to the use of telephone service. Telephone directories are furnished subscribers to facilitate the use of the service, and remain the property of the telephone company and may be collected upon issuance of new directories. Subscribers are entitled, without charge, to listings in the alphabetical section of the directory as follows:

Individual line service.....	1 listing
Joint user service.....	1 listing
Party line service, each primary station.....	1 listing
Private branch exchange service, each trunk line.....	1 listing

Business listings consist of a name, the address of the premises in which the primary station or switchboard is located, and the telephone number. A designation descriptive of the business will be included if the name does not indicate the nature of the business.

Business listings may be those of individuals engaged in a business, names of firms or members thereof, the names of corporations or the officers thereof, and the names of employees. A trade name made up by adding a term, such as company, agency, shop, works, etc., to the name of a commodity, will not be accepted as a listing unless the subscriber is authorized to do business under that name. Listings are not accepted which appear to be designed primarily to give publicity to a commodity or service.

All additional listings in connection with a subscriber's service, except night service, must bear the same address and telephone number as the primary listing, except that additional listings in connection with private branch exchange stations, and extension stations not located on the same premises as the primary station, may show the address at which the station is located, but will be accepted only in the name of the subscriber.

Residence listings consist of a name, an abbreviation indicating "residence," the address of the premises to which service is furnished and the telephone number.

Residence listings may be those of the subscriber or members of the subscriber's domestic establishment residing on the premises in which the subscriber's service is provided.

Residence listings of physicians, surgeons, dentists, veterinary surgeons or other medical practitioners, osteopaths, chiropractors, Christian Science practitioners, etc., may indicate the same distinctive designations as their business service listings. Residence listings of clergymen, professors, military and naval officers may, if necessary and desirable, for the purpose of identification, include abbreviated designations of title.

The charges for additional listings begin with the day they are included in the information records, and when printed in the directory, may not be discontinued until the end of the directory period, unless the subscriber's service is discontinued.

The company is liable for errors or omissions in the listings of its subscribers in the telephone directory in an amount not in excess of the charge for that exchange service during the effective life of that directory in which the error or omission is made.

RULE AND REGULATION No. 15.

Public Telephone Service.

Public telephones will be installed by the company, at its discretion, in public locations, to meet the general and transient telephone requirements.

RULE AND REGULATION No. 16.

Basis of Mileage Charges.

Mileage charges to private branch exchange stations are based on airline distance measured between the station and the private branch exchange switchboard.

RULE AND REGULATION No. 17.

Changes in Telephone Number.

The company may change the number of a subscriber's telephone if the requirements of the service demand it.

RULE AND REGULATION No. 18.**Limit of Conversation.**

Exchange calls of a subscriber to party line service may be limited to a maximum period of five (5) minutes.

RULE AND REGULATION No. 19.**Responsibility for Telephone Equipment.**

The subscriber shall be responsible for loss of or damage to any equipment or apparatus furnished by the company unless such loss or damage is due to causes beyond his control.

RULE AND REGULATION No. 20.**Use of Equipment.**

All telephone equipment and apparatus furnished by the company shall be carefully used and shall not be removed from the subscriber's premises except by an authorized representative of the company, nor connected in any manner with any equipment or apparatus not furnished or authorized by the company.

RULE AND REGULATION No. 21.**Ownership of Instrumentalities on Subscriber's Premises.****A. All Service.**

The company shall own, furnish, and maintain all instrumentalities, including inside wiring, protective apparatus, and other facilities used to provide service to a subscriber, except as may be specified in the rate schedules.

All instruments provided shall conform to the established construction standards of the company.

B. Directories.

Telephone directories containing the listings of subscribers' telephone numbers within a specified area, furnished from time to time by the company, are and remain the property of the company. They shall not be mutilated and shall be surrendered upon request to the carrier who delivers the subsequent issue.

RULE AND REGULATION No. 22.**Business and Residence Service.**

The applicability of business and residence rates is governed by the actual or obvious use made of the service.

The use to be made of the service will be ascertained from the applicant at the time of application for service.

A. Business Service.

Business rates apply at the following locations:

1. In offices, stores, factories, and all other places of a strictly business nature.
2. In boarding and rooming houses, colleges, clubs, hospitals and other institutions, offices, lobbies and halls of hotels, apartment buildings and churches.
3. At any location when the listing of office is provided or when any title indicating a trade or profession is listed, except as may be modified under Rule and Regulation No. 14; or when the substantial use of the service is occupational rather than domestic, regardless of the form of listing; or when the primary service is provided with an extension located at a point not a part of the subscriber's domestic establishment.

B. Residence Service.

Residence rates apply at the following locations:

1. In private residences or residential apartments of hotels, apartment houses when business listings are not provided and when all stations are in locations which are a part of the subscriber's domestic establishment.

If it is found that the subscriber is using residence service for business purposes, the company will thereafter require the subscriber to take business service, except in cases where the subscriber thereafter uses the service only for residence or domestic purposes.

RULE AND REGULATION No. 24.**Service Connections To Be Made by Company's Employees.**

Only duly authorized employees of the company are allowed to connect, disconnect, move, change or alter in any manner any and all instrumentalities and facilities furnished by the company.

RULE AND REGULATION No. 25.**Company's Right of Ingress to and Egress From Subscribers' Premises.**

The company has the right of ingress to and egress from the subscribers' premises at all reasonable hours for any purpose reasonably connected with the furnishing of telephone service and the exercise of any and all rights secured to it by law or these rules and regulations.

The company has the right to remove any and all of its property installed on the subscriber's premises at the termination of service as provided for in these rules and regulations.

RULE AND REGULATION No. 26.**Credit Allowance for Interruption to Service.**

Upon request of the subscriber, the company will allow subscribers credit in all cases where telephones are "out of service," except when the "out of service" is due to the fault of the subscriber, for periods of one day or more, from the time the fact is reported by the subscriber or is detected by the company, of an amount equal to the total bill for exchange service multiplied by the ratio of the number of days of "out of service" to the total number of days in the billing period covered by the total bill for exchange service.

A day of "out of service" will be considered to exist when outgoing service is not available for a period of twenty-four consecutive hours. When any "out of service" period continues for a period in excess of an even multiple of twenty-four hours, then the total period upon which to determine the credit allowance will be taken to the next higher even twenty-four hour multiple.

In no case will the credit allowance for any period exceed the total bill for exchange service for that period.

RULE AND REGULATION No. 27.**Subscribers' Private Service Not for Public Use.**

The subscriber shall not permit the public use of service furnished him for his private use.

If it is found that the subscriber is permitting public use of service furnished him for his private use, the company will thereafter provide public business service except in cases where the subscriber consents to the facilities being so located as to be inaccessible to the public or permits no further public use after the matter has been called to his attention.

RULE AND REGULATION No. 28.**Contracts.**

Contracts will not be required as a condition precedent to service except:

(a) As may be required by conditions as set forth in the regular schedule of rates and rules and regulations approved or accepted by the Railroad Commission of the State of California.

(b) In the case of line extensions, temporary service or service to speculative projects, in which case a contract may be required for a period not to exceed three years unless by special permission from the Railroad Commission of the State of California.

RULE AND REGULATION No. 29.**Moves and Changes.**

Moves and changes of telephone apparatus and wiring on the subscriber's premises, at the request of the subscriber will be made by the company, and the charges for such work will be as follows:

A. Telephone Sets.		
1. Moving from one location to another.....		\$3 00
2. Change in style, no change in service being involved.....		3 00
B. Private Branch Exchange Systems.		
1. Moving from one location to another:		
	Same room	One room to another
(a) P. B. X. systems, cord and cordless, per station.....	\$3 00	\$3 00
(b) P. B. X. switchboards, per position		
30-line	5 00	10 00
80-line	7 50	15 00
160-line	10 00	25 00
320-line	17 50	40 00
Over 320-line		Actual cost

C. Other Equipment and Wiring.

Charges for moving or changing of equipment or wiring, other than that included under A and B above, will be an amount equal to the actual cost of labor and material involved.

D. Maintenance.

The charges specified above do not apply if the changes or moves are initiated by the telephone company and required for the proper maintenance of the equipment or service.

E. Change in Class of Service.

The charges specified above do not apply if the changes are required because of a change in type, class or grade of service.

RULE AND REGULATION No. 30.**Service Connection Charges.**

Service connection charges provided for hereunder are payable at the time application for the particular service or facility is made, and are in addition to the regular schedule of rates.

Service connection charges apply to all exchange service and facilities, in accordance with the following provisions:

1. New and additional service.

Individual and party line primary stations and private branch exchange trunks:

	Service connection charges
Business and residence, each station-----	\$3 50
Each trunk -----	3 50
Private branch exchange stations (except operator's sets):	
Business and residence, each station-----	1 50
Extension stations:	
Business and residence, each station-----	1 50
2. Service where instrumentalities are already in place on subscriber's premises and no change in location of facilities is involved.	
Business and residence, subscriber's exchange service, one or more units -----	1 50

A change in location of telephone sets made at subscriber's request is subject to the charges for moves and changes, provided the total charges for such moves and changes shall not exceed the charges for the initial establishment of the subscriber's complete service and facilities.

Service connection charges do not apply under the following conditions:

Business service.

(a) When service is assumed by a receiver or by trustee, executor or administrator of an estate.

(b) Change in the name of the business concern (i.e., individual, partnership, syndicate or corporation) when there is no complete change in ownership or management.

Residence service.

(a) When service is assumed by a member of the former subscriber's family located in the same premises.

(b) When there is no change in the individuality of the recipient.

(c) When the subscriber's name has been changed by marriage or court order.

RULE AND REGULATION No. 31.**Line Extension.****A. Line Extension Within Primary Rate Areas.**

Line extensions necessary to render telephone service within the primary rate areas will be made by the company.

B. Line Extension Outside Primary Rate Areas.

A line extension necessary to render telephone service outside primary rate areas will be made in accordance with the following:

The applicant will pay to the company the entire cost of the necessary extension of plant, required outside of or beyond the primary rate areas, for the grade of service applied for as provided in the schedule of rates.

Amounts paid to the company for line extensions are not refundable.

Applicant, if he so elects, may provide and construct the required outside plant in accordance with the construction standards of the company in lieu of the above charge, but in all such instances, the ownership shall be vested in the telephone company.

C. Ownership and Maintenance of Line Extension.

All line extensions will be owned and maintained by the company.

D. Temporary Service.

Line extensions for temporary service to an applicant will be made, providing the applicant pays to the company the total cost to construct and remove the line necessary to render that service, less the salvage value of the materials used.

E. Location of Line Extensions.

The location of line extensions shall be determined by the telephone company.

F. Contracts.

Contracts for telephone service where line extensions are necessary may be required by the company as a condition precedent to service for a period not to exceed three years.

G. Saving Clause.

In any case which may appear to warrant a departure from the above rules, either on behalf of the company or applicant for service, the matter may be submitted to the Railroad Commission of the State of California for adjustment.

RULE AND REGULATION No. 32.**Errors in Transmitting, Receiving or Delivering Oral Messages by Telephone.**

The company shall not be liable for errors in transmitting, receiving or delivering oral messages by telephone over the lines of the company and connecting companies to exceed the amount of the charges received therefor.

RULE AND REGULATION No. 33.**Loss Arising From Nondelivery of Written Messages.**

The company shall be liable for loss or damage that may occur in the course of the employment of any messenger not to exceed twenty times the charge for such messenger service, and shall be liable for loss or damage that may occur in the transmission of any message over its lines not to exceed the amount received for sending same.

RULE AND REGULATION No. 34.**Service Connections at Subscribers' Premises.**

Except as otherwise provided in these rules and regulations, the company will, at its own expense, furnish and install all wires necessary to serve applicants in accordance

with its lawful rates, rules and regulations, and in accordance with its established construction standards.

In districts where underground construction would ordinarily be furnished by the company, or where such construction is required by law, the company will, at its own expense, extend the necessary underground construction to the property lines of the premises occupied by the subscribers, in accordance with its established construction standards, but shall not be required, at its own expense, to provide the conduit on the premises occupied by the subscribers.

Except in districts where underground construction would ordinarily be furnished by the company, or where such construction is required by law, the company will not, at its expense, furnish and install underground connections to or on the premises of subscribers, and if such underground connections are requested, the company will furnish and install the same, but the difference between the cost of such underground construction and the cost of furnishing the connections by means of the usual overhead construction must be paid to the company upon demand by the person, or persons, making the request for underground connections. If the underground conduit shall be furnished and installed by the occupant or owner of the premises, the same shall be subject to the approval of the company.

The interior wiring in buildings necessary to provide telephone service to the occupants shall be furnished and installed by the company, and it shall not be required to connect its facilities and instrumentalities with interior wires furnished and installed by others. If, as is sometimes the case, the owner of a building under construction elects to furnish and install wires which conform with the standards and specifications of the company, it may, as the exigencies of the service require, utilize such interior wiring until ownership is acquired from the building owner.

RULE AND REGULATION No. 35.

Temporary Service or Speculative Projects.

The company will furnish temporary service under the following conditions:

(a) The applicant for such service shall be required to pay to the company in advance, or otherwise as the company may elect, the net cost of installing and removing any facilities necessary in connection with furnishing of such service by the company.

(b) Each applicant for service may be required to deposit with the company a sum of money equal to the estimated amount of the company's bill for such service or to otherwise secure, in a manner satisfactory to the company, the payment of any bills which may accrue by reason of such service so furnished or supplied.

(c) Nothing in this rule and regulation shall be construed as limiting or in any way affecting the right of the company to collect from the subscriber any other or additional sum of money which may become due and payable to the company from the subscriber by reason of the service furnished or to be furnished hereunder.

DECISION No. 19123.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES COMPRESS
AND WAREHOUSE COMPANY FOR AN ORDER AUTHORIZING
ISSUE OF STOCK.

Application No. 13917.

Decided December 15, 1927.

SECURITY ISSUES—STOCK.—Los Angeles Compress and Warehouse Company authorized to issue and sell on or before March 1, 1928, at par, \$65,000 of its common capital stock, and to use \$40,000 of the proceeds to pay notes and \$25,000 to pay cost of improvements.

Newlin and Ashburn, by *Arthur T. George*, for Applicant.

BY THE COMMISSION.

FIRST SUPPLEMENTAL OPINION.

In the supplemental petition filed on October 24th in the above entitled matter Los Angeles Compress and Warehouse Company asks permission to issue and sell at par \$65,000 of common stock and use the proceeds to pay \$40,000 of outstanding notes, and to pay the cost of constructing a press room floor, retaining walls, install storm drains and other incidental construction work.

It is of record that the \$40,000 obtained through the issue of the notes was used for the following purposes:

Boiler house construction—purchase and installation therein of pumps and equipment	\$17,500 00
Purchase of automobile equipment.....	8,000 00
Purchase of sheds from city of Los Angeles.....	7,600 00
Construction of tower over press and miscellaneous construction work....	6,900 00
Total	\$40,000 00

By Decision No. 18616 dated July 13, 1927, the Commission authorized applicant to issue and sell at par \$130,000 of its common capital stock. The testimony shows that all of this stock has been issued and acquired by the parties mentioned in the Commission's decision and the proceeds used for the purposes indicated in such decision.

In Exhibit No. 8 applicant reports the cost of its properties on November 30, 1927, at \$235,100. Such cost was financed by the issue of \$130,000 of stock, by obtaining through the issue of short term notes \$75,000 from the Citizens National Bank, and \$30,100 which applicant's stockholders have advanced. The \$75,000 payable to the Citizens National Bank includes the \$40,000 of notes which applicant desires to pay through the issue of common stock. The \$30,100 advanced by applicant's stockholders was used in part to pay for the improvements referred to in the supplemental petition. The \$65,000 of stock which applicant asks permission to issue will be purchased by its present stockholders.

FIRST SUPPLEMENTAL ORDER.

Los Angeles Compress and Warehouse Company having applied to the Railroad Commission for permission to issue \$65,000 of common stock, a hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required by applicant for the purposes specified in this order, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income; therefore,

It is hereby ordered, that the Los Angeles Compress and Warehouse Company be and it is hereby authorized to issue and sell at par on or before March 1, 1928, \$65,000 of its common capital stock, and use \$40,000 of the proceeds to pay the notes referred to in the supplemental petition and use \$25,000 to pay the cost of the improvements referred to in said supplemental petition or deliver \$25,000 of said stock to applicant's stockholders in payment for advances made by them to provide applicant with funds to pay for such improvements.

It is hereby further ordered, that the authority herein granted will become effective upon the date hereof, and that applicant shall keep

such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this fifteenth day of December, 1927.

DECISION No. 19124.

IN THE MATTER OF THE APPLICATION OF WILLIAM JESSEN AND OLIVE JESSEN, DOING BUSINESS AS ROHNERVILLE WATER WORKS, FOR PERMISSION TO INCREASE RATES.

Application No. 14004.

Decided December 16, 1927.

RATES—WATER UTILITIES—INCREASE.—W. and O. Jessen doing business under the name of Rohnerville Water Works serving Rohnerville, Humboldt County, authorized to increase rates.

SERVICE—ACCESSORIES—OWNERSHIP AND CONTROL—METERS.—While installation of meters is usually required to be made at the expense of the utility, where the latter's financial condition was such that any considerable demand for meters would handicap continued operation, the utility was permitted to require consumers desiring metered service to make a deposit of the cost thereof, refund of deposit to be made at the rate of 20 per cent of the monthly water bills.

William Jessen, for Applicants.

W. A. Nichols, Protestant.

Mrs. I. B. Tucker, Protestant.

BY THE COMMISSION.

OPINION.

William Jessen and Olive Jessen, husband and wife, doing business under the name of Rohnerville Water Works and engaged in the business of supplying water for domestic purposes in and about the town of Rohnerville, Humboldt County, have petitioned the Railroad Commission for authority to increase the rates now charged for water. Applicants allege that the present rate of \$1 per month per consumer for all service rendered is insufficient to produce a reasonable return on the fair value of the property and ask that the base rate be raised to \$1.25, with additional rates for the various classes of service and water use.

A public hearing on this application was conducted by Examiner Handford at Rohnerville, notice having been given to all interested parties, the matter was duly submitted and is now ready for decision.

The present owners purchased the system from one Cordelia Bugbee, the transfer having been duly authorized by this Commission by its Decision No. 12074, dated May 12, 1923. At the time of acquisition by the present owners, this system was in very poor condition, but

since that time it has been largely rebuilt and additional facilities and extensions have been furnished. The owners testified that they intend to continue the replacement of the remaining structures of the old system as fast as their financial ability will permit until the system is placed in first-class condition throughout.

The water supply is drawn from three groups of small springs located southerly and easterly from the town, by means of gathering lines and passed into collecting boxes and tanks, from which it is transmitted by gravity a distance of approximately one-half mile into two storage tanks located at the eastern edge of the town. Distribution from the tanks is made by gravity to the consumers. In addition to the gravity supply from the springs, a ground water source has been developed by means of a well and pumping plant for emergency use in case of a season of excessive drought. The system contains approximately 22,000 feet of standard screw pipe, ranging in size from three inches to one-half inch in diameter. All pipe lines laid by the present owners are galvanized. On October 1, 1927, there were 105 service connections, of which 85 were active. The present rate in effect on this system is \$1 per month per consumer for all service rendered. This rate has been in effect for a great number of years and has never been established by this Commission.

The books and records of this utility are fragmentary and incomplete and do not reflect the total cost of the capital invested or the costs of operation and maintenance. No inventory or appraisal of the properties was submitted by applicants other than the general allegations set out in the petition filed with the Commission. P. E. Harroun, one of the Commission's engineers, presented a report in which the estimated original cost of the system was found to be \$14,734, as of October 1, 1927, with a corresponding depreciation annuity of \$456, computed by the sinking fund method at 5 per cent. The report also estimates the annual operating and maintenance expenses for the immediate future to be \$825, and shows the average annual gross income for the past three years, derived from the present rate, to be \$1,059. Based upon the foregoing figures, it is apparent that the utility has not been able to earn the bare costs of operation, maintenance and depreciation and is therefore entitled to an increase over the present schedule of rates. The estimates made by the Commission's engineer appear to be fair and reasonable and will, therefore, be used for the purposes of this proceeding.

The schedule of flat rates herein sought by the applicants is somewhat unbalanced and does not properly cover the demands of the various classes of service upon this system. The rates established herein are designed to more adequately cover the general use and to prevent, in so far as possible, under flat rates, discrimination against

the various classes of service demands. While applicants have applied for a meter rate, the record shows they do not expect to install meters at the present time because of the financial condition of the utility. The meter rate, however, will be established as requested and the installation of meters is recommended in case there should develop in the future any flagrant or excessive waste of water under the flat rate service. Although the Commission usually requires that the installation of meters be made at the expense of the utility, in this particular instance the financial condition is such that any considerable demand on the part of the consumers for the installation of meters would seriously handicap continued operation of the system. It therefore seems advisable to permit this utility, under existing conditions, to require those consumers who desire metered service to first make a deposit of the cost of such a meter with the understanding that refunds will be made to the consumer on such deposit at the rate of 20 per cent of the monthly water bills until the entire amount is satisfied.

Complaint was made by one consumer to the effect that the pressure and volume of water at his premises were poor and inadequate. Investigation developed that this consumer received service at the extreme end of a long line of old and small-sized pipe that is one of the remaining lines of the old system which has not yet been replaced by the present owners. Applicants have agreed to remedy this condition by the replacement of the old pipe line as soon as possible.

ORDER.

William Jessen and Olive Jessen, doing business under the fictitious firm name and style of Rohnerville Water Works, having made application for permission to increase the rate now charged by them for water service rendered to their consumers, a public hearing having been held thereon, the matter having been duly submitted and the Commission being now fully advised:

It is hereby found as a fact that the rates now charged by said William Jessen and Olive Jessen for water delivered to their consumers are unjust and unreasonable in so far as they differ from the rates herein established and that the rates herein established are just and reasonable rates for such service and basing the order upon the foregoing finding of fact and upon the statements of fact contained in the preceding opinion;

It is hereby ordered, that William Jessen and Olive Jessen, doing business under the fictitious firm name and style of Rohnerville Water Works, be and they are hereby directed to file with this Commission within thirty days from the date of this order the following schedule of rates to be charged consumers in and about the town of Rohnerville, Humboldt County, for all water delivered on and after the first day of January, 1928.

MONTHLY FLAT RATES.

1. Residences, boarding houses, flats, lodging houses, apartments, etc., five rooms or less.....	\$1 25
For each additional room.....	0 15
Additional for bathroom and one patent flush toilet.....	0 25
Additional for each extra bathtub or flush toilet.....	0 25
For each private barn with not more than two horses or cows.....	0 50
For each additional horse or cow.....	0 25
For more than fifty poultry, for each 500.....	0 25
2. Restaurants, cafes, etc.	\$2 50 to 6 00
3. Small stores or shops	1 25
Additional for family living therein on same floor.....	1 00
Large stores and warehouses, according to use of water.....	\$2 00 to 5 00
Doctors' or dentists' offices, not exceeding two rooms, with water tap....	1 25
Rooms in second or third stories occupied for offices, for each room with water	0 50
4. Ice cream parlors, soft drink establishments, drug stores, billiard or pool parlors, etc., either alone or in connection with other businesses, accord- ing to use of water.....	\$2 00 to 5 00
5. Barber shops, for single chair.....	1 50
For each additional chair.....	0 75
For each bath tub.....	1 50
6. Blacksmith shop, wagon shop, etc.....	\$1 25 to 3 50
7. Public halls, churches, clubs or lodge rooms, etc.....	1 25
8. Public water closets, single closet.....	1 25
For each additional closet.....	1 00
9. Irrigation :	
For irrigation of lawns and gardens in connection with domestic use, for each square yard actually irrigated.....	0 0½
For irrigation not in connection with domestic use, per square yard of surface actually irrigated	0 0½
10. Miscellaneous :	
Water for slaking lime, per barrel of lime.....	0 20
For dampening brick, per 1000 bricks.....	0 10
For cement work, per barrel of cement.....	0 15
11. For public use :	
For schools, street sprinkling, etc., by special arrangement with minimum charge	1 25

METER RATES.

1. Minimum Monthly Charges :	
For ½-inch meter	\$1 50
For ¾-inch meter	2 00
For 1-inch meter	3 00

Each of the foregoing "Monthly minimum charges" will entitle the consumer to the quantity of water which that minimum monthly charge will purchase at the following "Monthly quantity rates:"

2. Monthly Quantity Rates :	
0 to 600 cubic feet, per 100 cubic feet.....	\$0 25
Next 1200 cubic feet, per 100 cubic feet.....	0 20
Over 1800 cubic feet, per 100 cubic feet.....	0 15

Meters may be installed either at the option of the utility or the consumer. If requested by consumer, deposit must be made by such consumer upon application as follows :

½ x ¾-inch meter	\$15 00
¾-inch meter	25 00
1-inch meter	35 00

Above deposits to be refunded to the consumer by way of credit on monthly water bills to the extent of twenty (20) per cent thereof, until entire deposit is refunded.

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It is hereby further ordered, that William Jessen and Olive Jessen and they are hereby directed to file with this Commission within thirty days from the date of this order, rules and regulations governing service to their consumers, said rules and regulations to become effective upon their acceptance for filing by the Commission.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this sixteenth day of December, 1927.

DECISION No. 19125.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES GAS AND ELECTRIC CORPORATION FOR AN ORDER AUTHORIZING THE ISSUANCE OF SIXTY THOUSAND SHARES OF ITS COMMON CAPITAL STOCK.

Application No. 14095.

Decided December 19, 1927.

SECURITY ISSUES—STOCK.—Los Angeles Gas and Electric Corporation authorized to issue at not less than par \$3,000,000 of its common capital stock to reimburse treasury and distribute as a stock dividend, also to issue and sell on or before June 30, 1928, at not less than par, \$3,000,000 of its common capital stock to pay cost of properties.

Paul Overton, for Applicant.

BY THE COMMISSION.

OPINION.

Los Angeles Gas and Electric Corporation in this application asks permission to issue at par 60,000 shares (\$6,000,000 par value) of its common capital stock for the purposes hereinafter stated.

It is of record that the Los Angeles Gas and Electric Corporation has an authorized stock issue of \$60,000,000 represented by 600,000 shares, of which \$30,000,000, represented by 300,000 shares, is preferred capital stock and \$30,000,000, represented by 300,000 shares, is common capital stock. The shares of applicant's stock, both preferred and common, have a par value of \$100. As of September 1, 1927, applicant reports \$19,209,100 of preferred and \$14,000,000 of common stock outstanding.

The company asks permission to issue \$3,000,000 of its common capital stock for the purpose of reimbursing its treasury because of earnings expended for additions and betterments. As of August 1, 1927, it reports surplus at \$5,414,212.44. W. E. Houghton, applicant's treasurer, testified that the \$5,414,212.44 represented an earned surplus and that a like amount has been invested in the properties of the company. It is against such investment that applicant asks permission to issue the \$3,000,000 of common stock and thereafter distribute the

common stock to owners and holders of its common stock. All of the outstanding common stock of Los Angeles Gas and Electric Corporation is owned by the Pacific Lighting Corporation. The order herein will permit the distribution of the stock according to law.

Applicant has submitted a statement in which it estimates its 1928 construction expenditures at \$8,713,000. While this estimate has not been approved in all its detail, it is believed by representatives of applicant that its 1928 construction budget will be greatly in excess of \$3,000,000, the amount of common stock which applicant asks permission to sell for cash. It is of record that contracts have been let by applicant for the construction of a 35,000 k.w. addition to its Seal Beach electric generating plant and that such contracts call for the expenditure of \$2,180,000. The Pacific Lighting Corporation has agreed to purchase the \$3,000,000 of common stock of applicant at par, and to purchase the same as and when applicant needs cash to pay construction expenditures.

ORDER.

Los Angeles Gas and Electric Corporation having applied to the Railroad Commission for permission to issue \$6,000,000 of common capital stock, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expense or to income and that this application should be granted as herein provided; therefore,

It is hereby ordered, as follows:

1. Los Angeles Gas and Electric Corporation may issue at not less than par, \$3,000,000 of its common capital stock to reimburse its treasury on account of income expended for additions and betterments to its properties and thereafter distributed, as permitted by law, to its stockholders as a stock dividend.

2. Los Angeles Gas and Electric Corporation may issue and sell for cash at not less than par on or before June 30, 1928, \$3,000,000 of its common capital stock and use the proceeds obtained from the sale of such stock to pay in part the cost of the properties referred to in the statement filed in this proceeding on October 22, 1927.

3. The authority herein granted to issue stock will become effective upon the date hereof.

4. Los Angeles Gas and Electric Corporation shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the

Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this nineteenth day of December, 1927.

DECISION No. 19126.

IN THE MATTER OF THE APPLICATION OF SPRING VALLEY WATER COMPANY, A CORPORATION, FOR AN ORDER AUTHORIZING (1) THE ISSUE OF FIRST MORTGAGE FIVE PER CENT GOLD BONDS OF THE AGGREGATE PRINCIPAL AMOUNT OF TWO MILLION THREE HUNDRED THOUSAND DOLLARS; (2) THE ISSUE AND SALE OF FIVE PER CENT COLLATERAL TRUST SERIAL GOLD NOTES OF THE AGGREGATE PRINCIPAL AMOUNT OF TWO MILLION DOLLARS AND THE PLEDGING OF SAID BONDS TO SECURE SAME.

Application No. 14204.

Decided December 19, 1927.

SECURITY ISSUES—BONDS—NOTES.—Spring Valley Water Company authorized to enter into an agreement to issue \$2,300,000 of its first mortgage 5 per cent bonds due May 1, 1943, and deposit same with the trustee under said agreement, and to issue and sell on or before June 30, 1929, at not less than 99½ per cent of face value \$2,000,000 of 5 per cent collateral trust serial gold notes.

McCutcheon, Olney, Mannon and Greene, by Allan P. Matthew, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding the Railroad Commission is asked to authorize the Spring Valley Water Company to issue \$2,300,000 of its first mortgage 5 per cent gold bonds due May 1, 1943, and to issue and sell at not less than 99½ per cent of their par value \$2,000,000 5 per cent collateral trust serial gold notes and use the proceeds for the purposes hereinafter indicated. The company also asks permission to execute an agreement under the terms of which said notes will be issued and to deposit the \$2,300,000 of bonds with the trustee under such agreement to secure the payment of the \$2,000,000 of notes.

The purpose of the application now pending before the Commission is to finance in part the cost of the improvements referred to by the Commission in Decision No. 18819, dated September 19, 1927. In Exhibit No. 5, filed in this proceeding, the cost of the additions and betterments which the company proposes to install is reported at \$2,120,051 allocated to the different projects as follows:

a. Estimated cost San Andreas-Honda, 54" lockbar pipe line.....	\$1,109,378 00
b. San Andreas outlet works.....	284,000 00
c. Other additions, extensions and improvements.....	746,675 00

Total	\$2,120,051 00
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Spring Valley Water Company proposes to pay the cost of the additions and betterments referred to in Exhibit No. 5 through the issue of \$2,000,000 of 5 per cent serial gold notes maturing as follows:

\$150,000 00 on May 1, 1929.
\$150,000 00 on November 1, 1929.
\$250,000 00 on May 1, 1930.
\$250,000 00 on November 1, 1930.
\$300,000 00 on May 1, 1931.
\$300,000 00 on November 1, 1931.
\$350,000 00 on May 1, 1932.
\$250,000 00 on November 1, 1932.

The testimony shows that applicant has entered into an agreement to sell the notes, if their issue is authorized by the Commission, at 99½ per cent of their face value. The notes, as stated, mature serially and may be redeemed on any interest payment date at the option of the company at 101 and accrued interest. It is contemplated that the notes will be paid through use of moneys accumulating in the amortization fund mentioned in Decision No. 18819, dated September 19, 1927.

To secure the payment of the notes applicant asks permission to issue \$2,300,000 of its first mortgage 5 per cent bonds due May 1, 1943, and deposit the same with the Wells Fargo Bank and Union Trust Company, trustee under the agreement (Exhibit No. 3) providing for the issue of the serial notes. This agreement which the company asks permission to execute provides for a total authorized note issue of \$3,000,000. It further provided that there shall be deposited with the trustee to secure the payment of the notes first mortgage bonds of the company equal in amount to \$1,150 for every \$1,000 principal amount of notes issued. The agreement permits the trustee to return to the company a proper proportion of the bonds in the event the company pays notes outstanding. We have examined the proposed agreement and find the same to be in satisfactory form.

The \$2,300,000 of bonds which the company asks permission to issue will be certified against construction expenditures incurred from January 1, 1923, to September 30, 1927. In Exhibit No. 2 applicant reports such construction expenditures at \$4,485,764.23.

ORDER.

Spring Valley Water Company having applied to the Railroad Commission for permission to issue \$2,300,000 of its first mortgage bonds and \$2,000,000 of 5 per cent collateral trust serial gold notes, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the money, property or labor to be procured or paid for by such issue is reasonably required by applicant and that the expenditures herein authorized are not in whole or in part reasonably chargeable to operating expenses or to income and that this application should be granted as herein provided; therefore,

It is hereby ordered, as follows:

1. Spring Valley Water Company may execute an agreement substantially in the same form as the agreement filed in this proceeding, Exhibit No. 3, amended as indicated by applicant's attorneys in their letter of November 25, 1927, provided that the authority herein granted to execute such agreement is for the purpose of this proceeding only and is granted in so far as this Commission has jurisdiction under the terms of the Public Utilities Act and is not intended as an approval of said agreement as to such other legal requirements to which said agreement may be subject.

2. Spring Valley Water Company may issue not exceeding \$2,300,000 of its first mortgage 5 per cent bonds due May 1, 1943, and deposit the same with the trustee under the agreement which it is herein authorized to execute, said bonds to be deposited with said trustee pursuant to the terms and conditions of said agreement.

3. Spring Valley Water Company may issue and sell on or before June 30, 1929, at not less than 99 $\frac{1}{4}$ per cent of their face value \$2,000,000 of 5 per cent collateral trust serial gold notes, described in this proceeding, and use the proceeds to pay in whole or in part the cost of the additions and betterments described in Exhibit No. 5.

4. The authority herein granted will become effective when Spring Valley Water Company has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$1,500.

5. Upon the payment of all or part of the notes herein authorized, all or a proper proportion of the bonds deposited to secure the payment of the notes shall be returned to Spring Valley Water Company and shall thereafter not be sold or otherwise disposed of by said company, unless authorized by the Railroad Commission.

6. Within thirty days after the execution of the agreement authorized by this order, Spring Valley Water Company shall file two certified copies of the agreement with the Railroad Commission.

7. Spring Valley Water Company shall keep such record of the issue, sale and delivery of the bonds and notes herein authorized and of the disposition of the proceeds as will enable it to file, on or before the twenty-fifth day of each month, a verified report, as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

Dated at San Francisco, California, this nineteenth day of December, 1927.

DECISION No. 19133.

IN THE MATTER OF THE APPLICATION OF THE SOUTHERN SIERRAS POWER COMPANY, AN ELECTRICAL CORPORATION, FOR AN ORDER AUTHORIZING THE ISSUE AND SALE OF TWO MILLION DOLLARS, 7 PER CENT PREFERRED STOCK.

Application No. 14224.

Decided December 23, 1927.

SECURITY ISSUES—STOCK.—Application of Southern Sierras Power Company to issue stock dismissed for want of jurisdiction.

SECURITY ISSUES—JURISDICTION OF COMMISSION—ISSUANCE BY FOREIGN CORPORATION.—The Commission has no jurisdiction over the issue of stock by a corporation organized and existing under and by virtue of the laws of another state.

BY THE COMMISSION.

ORDER OF DISMISSAL.

The Southern Sierras Power Company organized June 15, 1911, and existing under and by virtue of the laws of the state of Wyoming, having applied for permission to issue \$2,000,000 of 7 per cent preferred stock, and the Commission having considered applicant's request and being of the opinion that it has no jurisdiction over the issue of stock by The Southern Sierras Power Company and that therefore this application should be dismissed;

It is hereby ordered, that this application be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19146.

IN THE MATTER OF THE APPLICATION OF TAHOE TRANSPORTATION COMPANY FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO STAGE LINE AND AN AUTO TRUCK LINE, FOR THE TRANSPORTATION OF PERSONS AND PROPERTY, FOR COMPENSATION, AND AS A COMMON CARRIER, BETWEEN TAHOE CITY AND LAKESIDE AND FALLEN LEAF LAKE, CALIFORNIA, AND INTERMEDIATE AND ADJACENT POINTS, AND BETWEEN TAHOE CITY AND BROCKWAY, CALIFORNIA, AND INTERMEDIATE POINTS, AND BETWEEN OTHER AND ADJACENT POINTS IN THE SAME TERRITORY.

Application No. 12987.

Decided December 23, 1927.

CERTIFICATES—AUTOMOTIVE TRANSPORTATION.—Tahoe Transportation Company authorized to operate an auto stage and auto truck service between Tahoe City and Brockway and intermediate points, and between Tahoe City and Lakeside and Fallen Leaf Lake and intermediate points, and to consolidate and unify said operations.

Brobeck, Phleger and Harrison, by Herman Phleger, and Sanborn and Roehl and DeLancey C. Smith, by A. B. Roehl, for Applicant.

Gwyn H. Baker, for Pierce Arrow Stages and El Dorado Motor Transport Company, Protestants.

BY THE COMMISSION.

OPINION.

Tahoe Transportation Company has petitioned the Railroad Commission for an order declaring that public convenience and necessity

require the operation by it of an auto stage line and an auto truck line for the transportation of persons and property, for compensation, as a common carrier, between Tahoe City and Lakeside and Fallen Leaf Lake and intermediate points, and between Tahoe City and Brockway and intermediate points and between other adjacent points in the same territory.

A public hearing on this application was conducted by Examiner Hannon at Tahoe Tavern, the matter was duly submitted and is now ready for decision.

Applicant owns and operates a steamship line on Lake Tahoe for the transportation of passengers and express, which business was acquired from its predecessor, Lake Tahoe Railway and Transportation Company. With the purchase of this property, and by virtue of Decision No. 16616 in Application No. 12720, applicant acquired by transfer the right to operate an automobile stage line as a common carrier of passengers and express between Tahoe Tavern and Brockway and intermediate points and also the right to operate an automobile stage line as a common carrier of passengers between Tahoe Tavern and Pomins and intermediate points.

Applicant now seeks authority to operate an automobile stage line for the transportation of passengers, express and freight between Tahoe City and Lakeside and intermediate points in conjunction with and as an extension of its present right to carry passengers between Tahoe Tavern and Pomins. Applicant also desires authority to operate an auto truck line for the transportation of freight between Tahoe Tavern and Brockway and intermediate points in conjunction with and as an extension of its present right to carry passengers and express between said points.

Applicant further desires authority to operate all of the proposed auto stage and truck lines as a single, unified system for the transportation of passengers and property and proposes to charge rates and to operate on a time schedule in accordance with Exhibits 1 and 2 attached to its application, using the equipment described in paragraph 7 of said application.

In protest against the granting of said application appeared A. L. Richardson, owner of the Pierce Arrow Stage line, operating a through service between Sacramento and points on Lake Tahoe, via Placerville. The El Dorado Motor Transport Company, operating a through truck line for the transportation of freight tri-weekly between Sacramento and Al Tahoe, Bijou and State Line, appeared by counsel, but presented no evidence in support of its protest.

T. E. Farrow, vice president and general manager of the applicant company, testified at some length in support of the application. Tracing the historical development of the present company, the witness pointed

out that the parent company, viz., the Lake Tahoe Railway and Transportation Company, for many years operated a narrow gauge railroad from Truckee to Tahoe Tavern, and also rendered steamer service on the lake. In June, 1925, the company was granted certificates authorizing the operation of steamer service from Tahoe Tavern north to Brockway and south to Pomins. A year later, the parent company gave to the Southern Pacific Company all of the railroad equipment, rights of way, and holdings of every character, on condition that the railroad company standardize the line and operate a service throughout the year. At the same time the original company sold its steamer line to the Tahoe Transportation Company and its hotel property to the Tahoe Company, the stock of the transportation company being held by the Tahoe Company. Witness testified that applicant proposes to operate five schedules daily between rail head at Tahoe City and the end of the line, connecting with all arriving and departing trains, at substantial reductions in fares. The present stage and boat operations do not supply adequate service to local residents and tourists at the lower end of the lake and train connections are unsatisfactory. The last schedule arriving from points south of Pomins reaches the Tavern at 6.30 p.m., three hours before the departure of the train for San Francisco. Witness stated it was the purpose of the applicant, if given authority so to do, to coordinate boat and stage service with train service. There are over 500 stopping points on the lake, practically all of which may be served by stage but can not be served by boat. There are some boat services that can be eliminated and in other instances supplemented by the addition of stage and truck service, thus effecting substantial economies in operation. In short, the witness testified the granting of this application would expedite travel into lake resorts, local travel around the lake, and the transportation of express and perishable commodities.

H. F. Droste, a real estate operator with office at Tahoe City and residence at Homewood, testified that he had lived in the vicinity for fifteen years and had found it very inconvenient to get delivery of supplies and express shipments, frequently being put to the necessity of going to Tahoe City, four and one-half miles distant, to obtain such shipments. Express shipments reaching Tahoe City in the morning would ordinarily lay over until the next day unless consignees came after them. Witness believed that the establishment of the proposed service, with its coordination with rail service, would benefit residents on the lake shore south of Tahoe City.

W. J. G. Lambert of Tahoe Park, whose business is similar to that of the preceding witness, likewise testified as to the necessity for the proposed service. He believed that the proposed schedule would insure

the delivery at destination of passengers and express on the date of their arrival on the train at Tahoe City.

Frank Globin, owning a resort at Al Tahoe at the south end of the lake and three miles from Lakeside, with accommodations for 250 guests, testified that not infrequently his guests arrive on the train in the evening and are compelled to stay over night at the Tavern unless special accommodations are provided to bring them to their destination. He estimated the number of small homes in his immediate vicinity at one hundred.

H. W. Wills, interested in several resorts on the north shore of the lake at Tahoe Vista, testified as to the need for local stage service between his resorts and those south of Tahoe Tavern, particularly in view of the fact that he owns and operates a golf course which is frequented by patrons from the southern end of the lake.

H. O. Comstock, owner and operator of a hotel at Brockway, testified that in his judgment every train arriving at and departing from Tahoe Tavern should be met with stage service, and any service less than that works a hardship on the traveling public as well as the resort owners. Freight shipments are usually not delivered until one or two weeks after arrival at Tahoe.

F. C. Rivinius is secretary-treasurer of the applicant company and testified as to the probable volume of traffic which might be expected as a result of the establishment of the proposed service. Since the inauguration by the Southern Pacific Company of through rail service to Tahoe there has been an increase of 80 per cent in passenger traffic handled by the company to this resort. Approximately 25 stations would be served under the proposed operation south of Tahoe, and with one passenger destined for each station, witness computed the net profit on each run at \$4.42. Sufficient steamer traffic could be diverted to make the stage lines profitable. All of the resort owners are obliged to use their own trucks to haul equipment and supplies from Tahoe.

On behalf of protestant Pierce Arrow Stages two witnesses appeared. Mrs. A. Connolley, owner and operator of Bijou Inn resort, located a mile west and south of Lakeside, has been served by the Pierce Arrow Stages since the inception of that service, and found same to be satisfactory. Witness favored a stage service which would connect with each train of the Southern Pacific Company. Ninety per cent of her guests arrive in their own conveyances and the balance in Pierce Arrow stages. According to her testimony, there is no demand for early morning and late evening stage service.

A. L. Richardson, owner and operator of the Pierce Arrow Stage Line, testified that his stage line has been operating from Sacramento through to the lake for 14 years, serving practically all points on the lake. Witness stated that he filed additional local schedules connecting

with trains as soon as such service was made available by the railroad, but that there was only negligible demand for such additional service. He maintains joint rates with the Southern Pacific Company which would be substantially affected by the proposed rates of applicant.

In connection with protest of Pierce Arrow Stage line, it should be noted that it affects only that portion of the proposed route from Pomins south, the territory north from that point as far as Brockway being already served by applicant under proper authorization. The testimony shows that it was not possible for passengers arriving over the rail line to reach any point on the lake on the date of arrival, nor have passengers from south of Pomins been able to make satisfactory connections with outgoing night trains.

True, protestant Pierce Arrow Stage line filed two extra local schedules between Richardson's and Tahoe Tavern, but not until after the filing of the instant application. Witness Richardson testified that his stage business was primarily inaugurated to establish through service from Sacramento to points on Lake Tahoe and that whatever local business he had ever done between points on the lake was incidental to his through business. He also testified that he did not think there was much business to be had by the operation of a local service around the lake. This protestant appeared to be only slightly interested in local service except in so far as it might affect his through business. The need for this local service, coordinating with rail service from Tahoe City, both north and south, was testified to by practically every witness, and it is clear that at the time this application was filed such service was entirely inadequate.

We have given careful consideration to the evidence and exhibits herein produced.

Applicant proposes a service which will, in effect, coordinate with and augment its present steamer service to all points on Lake Tahoe, thus satisfying a demand which seems to exist for a more flexible transportation system around the lake. The application quite naturally divides itself into two parts; the one with reference to service from Tahoe City north to Brockway, and the other affecting service from Tahoe City south to Lakeside.

As to the service north, applicant is now operating an authorized passenger and express service, the latter being limited to packages weighing not in excess of 40 pounds. By this application it seeks authority to remove the weight limit on express shipments and in addition to operate an auto truck system for the transportation of freight. The evidence shows that there exist unnecessary and aggravating delays in freight shipments destined for Brockway and intermediate points. Such shipments frequently lay over at Tahoe City for 24 hours or longer. The proposed time schedules of stages and

rucks are so arranged as to coordinate with the arrival and departure of all Southern Pacific trains at Tahoe City, thus eliminating delays and assuring delivery on day of arrival at rail head and a corresponding speeding up of outgoing shipments. There is no protest to the application in so far as it relates to service between Tahoe City and Brockway and this appears to be a desirable extension of service.

The second part of the application concerns an extension of the present operative rights of applicant from Pomins south to Lakeside, now limited to passengers only. This portion of the application is resisted only in so far as it relates to the transportation of passengers. The same arrangement is here proposed as is offered in the northern territory. The evidence shows that the lake steamers leave Tahoe Tavern before the arrival of trains which carry the bulk of the freight so that shipments must lay over until the following day unless consignees are willing and able to take personal delivery. By coordinating the schedules of passenger stages and trucks with the four daily train schedules passengers can reach any point on the lake upon the day of their arrival at Tahoe City, and freight shipments will move with an equal degree of promptness. Tourists will also have the choice of traveling around the lake partly by stage and partly by steamer. Five trips each way daily are proposed in the schedule, with a daily freight service, and a substantial reduction in local fares. With the establishment of the proposed service a passenger from San Francisco destined to Lakeside, upon reaching Tahoe Tavern may avail himself of both stage and boat, going by steamer to Lakeside and returning on the stage, or vice versa, this exchange of service and tickets being provided for in the tariff.

In the light of all the evidence in this proceeding, it is clear that his proposed service is likewise desirable and necessary.

Finally, applicant asks authority to unify and coordinate all of the foregoing auto stage and auto truck operations so that they may be conducted as a single unified system.

From the record we are satisfied applicant has satisfactorily established the need for a consolidation, both in better service to the public and resulting economies in operation. A certificate will be granted authorizing the consolidation of all of the applicant's lines embraced in this proceeding.

Upon full consideration of the evidence we are of the opinion and hereby find as a fact that the operations herein contemplated, and to which the certificate herein below refers, involve the transportation by stage, auto stage, or other motor vehicle of persons, and incidental hereto the transportation of their baggage or express, as a common carrier, for compensation over the public highways of this state

between the fixed termini or over the regular route hereinabove mentioned. We also find as a fact that the operations herein contemplated also involve the transportation by automobile, auto truck or other automotive vehicle, of property as a common carrier for compensation between the fixed termini or over the regular route hereinabove mentioned.

ORDER.

A public hearing having been held in the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the findings of fact which appear in the foregoing opinion:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by Tahoe Transportation Company of an automobile stage service for the transportation of passengers, their baggage and express between Tahoe City and Brockway and intermediate points, and between Tahoe City and Lakeside and Fallen Leaf Lake and intermediate points.

The Commission also declares that public convenience and necessity require the operation by Tahoe Transportation Company of an automobile truck service for the transportation of freight and express between Tahoe City and Brockway and intermediate points, and between Tahoe City and Lakeside and Fallen Leaf Lake and intermediate points.

The Commission further declares that public convenience and necessity require the unification and consolidation of all of the foregoing auto stage and auto truck operations so that they may be conducted as a single, unified system; and

It is hereby ordered, that a certificate of public convenience and necessity be and the same is hereby granted subject to the conditions as hereinafter set forth:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

2. Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19147.

IN THE MATTER OF THE APPLICATION OF SOUTHERN COUNTIES GAS COMPANY OF CALIFORNIA FOR A CERTIFICATE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE EXERCISE OF RIGHTS AND PRIVILEGES UNDER FRANCHISES WHICH APPLICANT HAS SECURED FROM THE CITIES OF MONTEBELLO AND LOS ANGELES AND THE COUNTY OF SAN BERNARDINO.

Supplemental Application No. 8309.

Decided December 23, 1927.

SERVICE—GAS UTILITY.—Slight change made in territorial limits within which Southern Counties Gas Company may serve under an ordinance of San Bernardino County.

BY THE COMMISSION.

SUPPLEMENTAL OPINION AND ORDER.

Southern Counties Gas Company of California asks the Commission to modify its Decision No. 11508 in accordance with an agreement recently entered into between applicant and Southern California Gas Company.

In Application No. 8309 the Commission made its Decision No. 11508, dated January 16, 1923, granting Southern Counties Gas Company, among other things, a certificate of public convenience and necessity to exercise certain franchise rights in San Bernardino County under Ordinance No. 177. This certificate provided that Southern Counties Gas Company should not distribute or sell gas within the territory described in Ordinance No. 177 lying east of the westerly line of Cucamonga avenue and the northerly and southerly prolongation thereof, this restriction being in accordance with a joint stipulation filed by Southern Counties Gas Company and Southern California Gas Company in Application No. 8309.

It now appears that applicant and Southern California Gas Company have made a new agreement slightly altering the boundary line heretofore agreed to, copy of said agreement and a map showing said boundary line being attached to said supplemental application. This alteration in the boundary line will make it possible for Southern Counties Gas Company to serve certain territory immediately adjacent to its lines and remote from the lines of Southern California Gas Com-

pany, and is, accordingly, in the public interest. This is not a matter in which a hearing is necessary.

ORDER.

Southern Counties Gas Company of California having applied to the Railroad Commission for a modification of Decision No. 11508, with respect to the extent of service which might be rendered under Ordinance No. 177, granted by the county of San Bernardino, the Commission being fully advised, and good cause appearing;

It is hereby ordered, that that portion of the order in said Decision No. 11508 reading as follows:

(1) Ordinance No. 177 of the county of San Bernardino except as follows: "Southern Counties Gas Company of California shall not distribute or sell natural, artificial or mixed gas within the territory described in said Ordinance No. 177 lying east of the westerly line of Cucamonga avenue, and the northerly and southerly prolongation thereof. As indicated upon the map attached to the joint stipulation filed by Southern California and Southern Counties Gas Companies in this proceeding under date of October 16th, 1922."

be changed to read as follows:

(1) Ordinance No. 177 of the county of San Bernardino except as follows:

Southern Counties Gas Company of California shall not distribute or sell natural, artificial or mixed gas within the territory described in said Ordinance No. 177 lying east of the boundary line agreed upon between Southern California and Southern Counties Gas Companies in that certain agreement dated September 30, 1927, copy of which is attached to and made a part of Supplemental Application No. 8309 and designated Exhibit "A".

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19150.

IN THE MATTER OF THE APPLICATION OF KEY SYSTEM TRANSIT COMPANY, A CORPORATION, FOR PERMISSION TO ABANDON ITS FRANCHISE RIGHTS AND TRACKS AND THE OPERATION OF ITS TWENTY-THIRD STREET LINE, SIXTH STREET LINE, OHIO STREET LINE AND GRAND CANYON LINE, IN THE CITY OF RICHMOND, COUNTY OF CONTRA COSTA, AND THE COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA.

Application No. 13875.

Decided December 23, 1927.

SERVICE—ABANDONMENT—STREET RAILWAY.—Key System Transit Company authorized to abandon its track and service on that part of its Grand Canyon line along San Pablo avenue and McBryde street in Richmond, Contra Costa County, it having been stipulated by applicant and the city that, new franchises

having been granted, operation would be continued on other street car lines for which authorization to abandon had been sought.

*robeck, Phleger and Harrison, by Frank S. Richards, for Applicant.
thomas M. Carlson, City Attorney, and T. H. DeLap, for City of Richmond.*

EAVEY, Commissioner.

OPINION.

In this proceeding Key System Transit Company requests permission to abandon its local street car lines in the city of Richmond, Contra Costa County, California.

Public hearings were held in Richmond on August 16 and December 3, 1927.

At the latter hearing, the applicant and the city of Richmond filed a stipulation which set forth that the applicant had been granted, by said city, new franchises for the operation of all its street car lines within Richmond, in which applicant is to be allowed to abandon its track and service on that part of its Grand Canyon line along San Pablo avenue and McBryde street, and to continue the operation of the remaining lines involved in this proceeding.

It appears that this arrangement meets public convenience and necessity and, therefore, I recommend the following form of order:

ORDER.

Key System Transit Company, a corporation, having made application for permission to abandon its franchise rights and tracks and operation of its Twenty-third street line, its Sixth street line, its Ohio street line and its Grand Canyon line, in the city of Richmond, county of Contra Costa, State of California, public hearings having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision, and it appearing that the application should be granted in part and denied in part; therefore,

It is hereby ordered, that permission and authority be and the same is hereby granted to Key System Transit Company, a corporation, to abandon its franchise rights and tracks and the operation of that portion of its Grand Canyon line described as follows:

Commencing in San Pablo avenue, at its intersection with the center line of Macdonald avenue, and running thence northerly along San Pablo avenue to the center line of McBryde avenue; running thence easterly along said McBryde avenue to the northerly boundary of the city of Richmond and the end of the tracks of applicant at a point near Grand Canyon Park.

Said abandonment is granted subject to the following conditions:

(1) Applicant shall, for at least five days before the abandonment of said service, post notices in all the cars of Grand Canyon line, notifying the public of said abandonment.

(2) Applicant is further required to cancel all tariffs and time schedules now filed with this Commission covering fares and schedules now applicable to that portion of Grand Canyon line authorized to be abandoned, such cancellation to be made in accordance with the provisions of this Commission's Tariff Circular No. 2, and other regulations of this Commission.

It is hereby further ordered, that in all other respects the application be and the same is hereby dismissed.

The effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19151.

IN THE MATTER OF APPLICATION OF SOUTHERN PACIFIC COMPANY FOR AUTHORITY TO REDUCE ITS SO-CALLED "HORSESHOE" SERVICE BETWEEN OAKLAND PIER AND ALAMEDA, CALIFORNIA.

Application No. 14171.

Decided December 23, 1927.

SERVICE—ABANDONMENT—REDUCTION OF.—Southern Pacific Company authorized to reduce its passenger service on the so-called "Horseshoe" line between Oakland Pier and Alameda.

SERVICE—ABANDONMENT—REDUCTION OF.—Upon a showing that an average of 4.4 revenue passengers were carried per single trip, that existing street car service is ample to handle local traffic, and that a saving of \$20,000 per year could be effected thereby, an interurban line was authorized to reduce service to two trips each way daily.

E. J. Foulds, for Applicant.

W. J. Locke, for City of Alameda.

SEAVEY, Commissioner.

OPINION.

In this application, Southern Pacific Company, a corporation, requests permission to reduce the amount of service on the so-called "Horseshoe" line of its East Bay Electric Division in Oakland and Alameda, Alameda County, California.

A public hearing was held in this matter December 10, 1927, in Alameda.

The "Horseshoe" service of Southern Pacific Company is operated between Alameda and Oakland Pier by way of Lincoln avenue, in Alameda, and Fruitvale avenue to Fruitvale station, Oakland, thence along the Seventh street line to Oakland Pier. The present service on

his line consists of 37 round trips during the week days, 43 trips on Sundays and 41 trips on Saturdays. From a traffic check taken in the latter part of November, an average of 4.4 revenue passengers were carried per single trip.

It is proposed by the applicant to reduce the service to two trips each way daily, as shown by the exhibit attached to the application. By so doing, it is estimated that a saving of \$20,000 per year can be effected. The existing street car service between Oakland and Alameda offered by the Key System Transit Company is ample to handle the local traffic between the two cities and it therefore appears that no necessity exists for the continued operation of the "Horseshoe" service throughout the day.

No objection was raised to the curtailment of this service by either the cities of Alameda or Oakland, or any of their civic organizations.

The following form of order is recommended :

ORDER.

Southern Pacific Company, a corporation, having made application for permission to reduce its so-called "Horseshoe" service between Oakland Pier and Alameda, county of Alameda, State of California, a public hearing having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision; herefore,

It is hereby ordered, that permission and authority be and it is hereby granted to Southern Pacific Company, a corporation, to reduce its passenger service on the so-called "Horseshoe" line between Oakland Pier and Alameda, as set forth on the exhibit attached to the application, subject, however, to the following conditions:

(1) Applicant shall, for at least five days before the reduction of service, post notices in all trains of said "Horseshoe" service, notifying the public of said reduction in service.

(2) Applicant shall file with the Commission the proposed time schedule at least five days before the reduction of service on said "Horseshoe" line.

The authority herein granted shall become effective on the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19152.

IN THE MATTER OF THE APPLICATION OF J. B. PECKHAM COMPANY,
A CORPORATION, FOR AN ORDER CONFIRMING AND DEFINING
OPERATIVE RIGHTS.

Application No. 12519.

IN THE MATTER OF THE INVESTIGATION ON THE RAILROAD COM-
MISSION'S OWN MOTION INTO THE OPERATION, RATES, PRAC-
TICES AND SERVICE OF J. B. PECKHAM COMPANY, A CORPORA-
TION, BY MOTOR VEHICLE FOR COMPENSATION OVER THE
HIGHWAYS OF THIS STATE BETWEEN FIXED TERMINI OR OVER
REGULAR ROUTES.

Case No. 2338.

Decided December 23, 1927.

CERTIFICATES—AUTOS—OPERATION PRIOR TO REGULATION.—J. B. Peckham Com-
pany found to have been on May 1, 1917, operating in good faith, an automo-
tive truck service between San Francisco and Palo Alto and intermediate
points via Mission Highway, Bay Point Highway, the Great State Highway
and the Middle Field Road, serving also points approximately one mile on
either side of the main highways traversed, directed to file tariffs and to
cease and desist from other operation.

PLEADING AND PROCEDURE—INVESTIGATION ON OWN MOTION.—Because of doubt as
to the jurisdiction of the Commission to render a declaratory judgment defining
or confirming operative rights alleged to have been created prior to the
effective date of Chapter 213, Statutes 1917, an investigation was instituted
on the Commission's own motion into the operations of the applicant.

CERTIFICATES—NECESSITY—OPERATION PRIOR TO REGULATION.—An automotive
transportation company operating in good faith as a common carrier between
specified termini on the effective date of Chapter 213, Statutes 1917, has
thereby obtained a right to continue such operations after the effective date
of the act without certification from the Commission.

SCHEDULES AND TARIFFS—IN GENERAL.—An automotive transportation company
operating prior to May 1, 1917, has not forfeited or abandoned such right
because of failure to file tariffs, rules and regulations within a reasonable
time thereafter where the operator had been advised by a letter from the
Commission that it would not be called upon to file such a tariff.

Kirkbridge and Gordon, by *Joseph B. Gordon*, and *Devlin and Brookman*, by *Doug-
las Brookman*, for Applicants in Application No. 12519, and for Respondents
in Case No. 2338.

Gwyn H. Baker, for Highway Transport Company, Pioneer Gibson Express and
Bekins Van Lines, Inc., Protestants in Application No. 12519, and Interveners
in Case No. 2338.

LOUTTIT, Commissioner.

OPINION.

On February 11, 1926, J. B. Peckham Company, a corporation,
filed with this Commission an application requesting an order confirm-
ing and defining operative rights alleged to have been created prior
to the effective date of the Auto Stage and Truck Transportation Act,
or on May 1, 1917. The application was set for hearing before
Examiner Austin on October 4, 1926, at which time protestants, High-
way Transport Company, a corporation, and Pioneer Gibson Express,
a corporation, appeared and filed a motion to dismiss this application
upon the ground that the Commission was without jurisdiction to

under a declaratory judgment defining or confirming such rights. This action was taken under advisement and because of a doubt as to the question involved, this Commission instituted Case No. 2338, being an investigation upon its own motion into the operations, rates, practices and service of this corporation. A hearing was held before me, at which time Highway Transport Company and Pioneer Gibson Express appeared and took the position that owing to the failure of the J. B. Peckham Company to file its tariffs on May 1, 1917, or within a reasonable time thereafter, it thereby forfeited its operative right created by and under the Auto Stage and Truck Transportation Act (Stats. 1917, chap. 213, p. 330, as amended). After the filing of briefs the matter is duly submitted and is now ready for decision.

From the record it appears that prior to May 1, 1917, and continuously until now, J. B. Peckham Company has been operating as a common carrier between the city and county of San Francisco and Palo Alto and intermediate points over the public highways of this state. In 1888 J. B. Peckham commenced the above described operations by the use of horse-drawn vehicles. In 1907 his business was transferred to the J. B. Peckham Company, which company has been engaged in the above described business up to the present time. With the advent of the automobile, which was prior to May 1, 1917, the corporation substituted automobiles for horse-drawn vehicles as the mode of carriage. On May 1, 1917, four automobile trucks were being used by the company in its business of transportation as a common carrier over the public highways of this state between San Francisco and San Mateo and intermediate points.

It further appears from the record that the company has never filed rates, tariffs, rules or regulations with this Commission. The reason for this failure to so file, as explained by one of the company's witnesses, was that it had theretofore never deemed itself a common carrier, and was not, therefore, under the jurisdiction of the Commission so as to be required to make such filings.

The questions for our determination are:

1. Whether or not the J. B. Peckham Company, a corporation, was operating in good faith as a common carrier at the time of the effective date of the Auto Stage and Truck Transportation Act, or on May 1, 1917, between fixed termini or over a regular route or routes.
2. If so, whether such operative right has been legally abandoned or forfeited by failure of the J. B. Peckham Company to file rates, tariffs, rules and regulations or in other respects to assert or perfect such operative right either on or within a reasonable time after the effective date of the Auto Stage and Truck Transportation Act.

As to the first question, it seems clear to me that on May 1, 1917, the effective date of the Auto Stage and Truck Transportation Act (Chap.

213, Stats. 1917, p. 330, as amended), J. B. Peckham Company, a corporation, was operating in good faith as a common carrier between the termini of San Francisco and Palo Alto and intermediate points over the routes of Mission Highway, Bay Point Highway, the Great State Highway, and the Middle Field road, said operation also covering service to points approximately one mile on either side of the main highways traversed. The company had therefore obtained a right to continue such operations after the effective date of the act without certification from this Commission, as is provided by and under said act.

With respect to the second question, it is my opinion that the J. B. Peckham Company has not forfeited or abandoned this right, for the reason that its failure to file its tariffs, rules and regulations within a reasonable time after the effective date of the Auto Stage and Truck Transportation Act is disclosed by the record herein to have resulted directly from a letter sent to this operator by this Commission under date of April 16, 1917, in which letter the operator was advised that it would not be called upon to file a tariff to cover the operations in question, and further that if anything should in the future be required, the operator would be duly notified. We believe that under these circumstances it can not be held that this operator forfeited its right merely because it did not file its tariffs.

I recommend the following form of order:

ORDER.

An investigation having been instituted upon the Commission's own motion into the rates, rules, practices, contracts, classifications, etc., of the J. B. Peckham Company, a corporation; a public hearing having been held thereon; the matter having been duly submitted after the filing of briefs, and being now ready for decision:

It is hereby found as a fact that on May 1, 1917, J. B. Peckham Company, a corporation, was operating in good faith as a common carrier of property by automotive truck between the termini of San Francisco and Palo Alto and intermediate points over the routes of Mission Highway, Bay Point Highway, the Great State Highway, and the Middle Field road, serving also points approximately one mile on either side of the main highways traversed; and

It is hereby ordered, that within ten days from the date of this order, J. B. Peckham Company, a corporation, be and it is hereby directed to file its rates, tolls, rentals, charges and classifications and time schedules covering said service, said tariff of rates, rules and regulations to show geographical points served by said J. B. Peckham Company prior to and on May 1, 1917, and to be a tariff of rates and rules and time schedule satisfactory in form and substance to the Railroad Commission.

It is hereby further ordered, that J. B. Peckham Company, a corporation, be and it is hereby ordered to cease and desist from operating as a common carrier by automotive vehicle between fixed termini or over regular routes except between the termini of the city and county of San Francisco and the city of Palo Alto and intermediate points over the routes as described in the order herein.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19154.

IN THE MATTER OF THE APPLICATION OF CHARLES BALISH FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE PASSENGER AND EXPRESS SERVICE BETWEEN TRUCKEE AND TAHOE CITY TO TALLAC, CALIFORNIA.

Application No. 14105.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC MOTOR TRANSPORT COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR STAGE FOR PASSENGERS AND THEIR BAGGAGE BETWEEN THE SOUTHERN PACIFIC STATIONS AT TRUCKEE, TAHOE AND TAHOE CITY, CALIFORNIA.

Application No. 14126.

Decided December 23, 1927.

CERTIFICATES—AUTOMOTIVE TRANSPORTATION.—Southern Pacific Motor Transport Company authorized to operate auto stage service for the transportation of passengers, baggage and express between passenger stations of the Southern Pacific Company at Truckee, Nevada County, and at Tahoe and Tahoe City, Placer County, and specified intermediate points.

CERTIFICATES—PREFERENCE AMONG APPLICANTS.—As between conflicting applicants for a certificate, a motor transport company and subsidiary of a rail carrier, being able to give more suitable and permanent service, was granted a certificate rather than an individual, where the rail carrier proposed to abandon service over the route in question.

E. J. Foulds, for Southern Pacific Company and Southern Pacific Motor Transport Company.

W. M. Kearney, for Charles Balish.

Brobeck, Phleger and Harrison, by *Frank S. Richards*, for Tahoe Transportation Company.

W. McMahon and *A. W. Bohn*, for American Railway Express Company.

A. L. Richardson, for Pierce Arrow Stages.

CARR, Commissioner.

OPINION.

Two applications, one by Charles Balish and the other by Southern Pacific Motor Transport Company, a subsidiary of the Southern Pacific Company, are here made for a certificate of public convenience and necessity to operate a motor bus passenger, baggage and express service

between Truckee and Tahoe City and Tahoe Tavern and intermediate points. Balish also seeks a certificate authorizing him to transport passengers and express between the same points as far south as Tallac. A public hearing was held on the two above entitled applications at Truckee on November 10, 1927, at which time it was stipulated that they might be consolidated for hearing and determination.

What Balish really wants is a certificate authorizing him to do a local intrastate business as part of an interstate operation. Both applicants want certificates only for summer business. There is no motor bus transportation in the summer season between Truckee and Tahoe City and Tahoe Tavern.

Southern Pacific Motor Transport Company proposes to establish identical fares and similar baggage and express accommodations to those now afforded by the Southern Pacific Company during the summer season, on certain local trains operated between Truckee and Tahoe City and Tahoe Tavern, in addition to other trains carrying through sleepers.

The evidence shows that the Southern Pacific Company desires and proposes to withdraw its local train service if the Southern Pacific Motor Transport Company should be certificated, the proposed schedules of the latter company to be the same as the schedules of the local trains proposed to be withdrawn. During the course of the hearings, permission was granted to the Southern Pacific Company to file formal request for leave to discontinue the local trains in question, the evidence submitted at the hearings to be considered, in so far as pertinent, as the record in that application. Since the submission of the two applications, the Southern Pacific Company has filed the application (No. 14215) referred to and an order on the same is being made concurrently with the order herein.

While the Southern Pacific Motor Transport Company placed its application almost entirely on the ground that the motor bus service was cheaper to operate than the local train service proposed to be discontinued, there was evidence in the record showing that the public convenience and necessity would be subserved by the certification of a motor bus service between Truckee and Tahoe.

As between the conflicting applicants for the certificate, Southern Pacific Motor Transport Company appears to be in a position to give the more stable and permanent service and is the one which should be certificated. The evidence does not justify the certification of both applicants, nor does it justify the certification of Balish for the route which is not in conflict, there being an adequate existing service over the same. The application of Southern Pacific Company to discontinue local train service between Truckee and Tahoe, during the summer season, should be granted under separate order.

I recommend the following form of order :

ORDER.

Public hearings having been held on the above entitled applications, the matters having been duly submitted, the Commission being now fully advised and basing its order on the findings appearing in the opinion preceding this order :

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation by Charles Balish of an automobile stage service for the transportation of passengers, baggage and express between Truckee, California, and Tahoe City to Tallac, California, and intermediate points; therefore, *It is hereby ordered*, that Application No. 14105 be and it is hereby denied.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the operation, by Southern Pacific Motor Transport Company, of an automobile stage service for the transportation of passengers, baggage and express, between the passenger stations of Southern Pacific Company at Truckee, Nevada County, California, and at Tahoe and Tahoe City, in Placer County, California, and intermediate points which are Southern Pacific passenger stations or railroad stopping points as follows; provided, that the express herein authorized to be transported shall be carried in accordance with the rates, rules and regulations of the American Railway Express Company now on file with this Commission in the name of said company: Truckee, Headland, Denvale, McPhetres, Big Chief, Bull's Head, Squaw Creek, Old Road, Deer Park, Rampart, Mess Hills, Tahoe.

It is hereby further ordered, that a certificate of public convenience and necessity for such a service be and is hereby granted to Southern Pacific Motor Transport Company, subject to the following conditions:

(1) Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from the date hereof.

(2) Applicant shall file, in duplicate, within a period of not to exceed thirty days from the date hereof, tariff of rates, fares and time schedules, to be similar to those submitted by applicant at the hearing of this application, or rates, fares and time schedules satisfactory to the Railroad Commission; and shall commence operation of said motor vehicle service on or before May 1, 1928.

(3) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

(4) No vehicle may be operated by applicant herein unless such

vehicle is owned by applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

(5) The motor vehicle operation herein authorized shall be seasonal in character and rail service may be substituted for same when weather conditions do not permit the operation of motor vehicle service.

For all other purposes the effective date of this order shall be twenty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19155.

IN THE MATTER OF THE APPLICATION OF LOS ANGELES AND SALT LAKE RAILROAD COMPANY, A CORPORATION, FOR AUTHORITY TO DISCONTINUE PASSENGER TRAIN SERVICE UPON ITS ANAHEIM BRANCH, AND THE APPLICATION OF UNION PACIFIC STAGE COMPANY, A CORPORATION, FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE A MOTOR BUS SERVICE IN LIEU THEREOF.

Application No. 14104.

Decided December 23, 1927.

SERVICE—RAILROAD—ABANDONMENT—BUS SUBSTITUTION.—Los Angeles and Salt Lake Railroad Company authorized to discontinue passenger train service upon its Anaheim branch. Application of Union Pacific Stage Company to operate motor bus service in lieu thereof denied.

AUTOMOTIVE TRANSPORTATION—JURISDICTION OF COMMISSION—INTERSTATE OPERATION.—As to the substitution of bus service for interstate passengers upon the abandonment of rail service no certificate is necessary, this involving an interstate operation.

AUTOMOTIVE TRANSPORTATION—CERTIFICATES—SUBSTITUTION FOR RAIL SERVICE.—“While the effecting of economies in rail operation is an end to be desired and encouraged, the effecting of an economy by the substitution of motor bus service is not in itself the equivalent of public convenience and necessity required to exist in order that certification may be allowed.”

AUTOMOTIVE TRANSPORTATION—CERTIFICATES—SUBSTITUTION FOR RAIL SERVICE—BY SUBSIDIARY.—Much greater economy is possible by the utilizing of existing service of an auto stage company under a system of joint rates, rather than authorizing a subsidiary motor bus company to operate upon the abandonment of service of a parent rail carrier burdening the highways with an additional stage line to transport a negligible amount of passengers finds no justification.

Fred E. Pettit, Jr., for Applicants.

Herbert W. Kidd, for Motor Transit Company, Protestant.

CARR, Commissioner.

OPINION.

Los Angeles and Salt Lake Railroad Company applies for leave to discontinue its passenger branch line service from Pico Station to Anaheim, and Union Pacific Stage Company, a subsidiary of the Union Pacific Railroad Company, which is also the owner of the Los Angeles

and Salt Lake Railroad Company, applies for a certificate of public convenience and necessity to establish an auto stage service between the same points, to operate on the same schedules and with the same fare structure as at present.

A public hearing has been held and the matter is now ready for decision.

The facts are very simple. Branch line service of Los Angeles and Salt Lake Railroad Company is being conducted at a decided loss. On an average but four passengers a day are carried. Of these 75 per cent are interstate passengers and 25 per cent intrastate. Of the last class a few are purely local between the points mentioned.

The loss from this branch line service will be somewhat reduced by the substitution of an auto stage service. This, according to the proposal, contemplates the operation of a modern de luxe auto stage of a seating capacity of twenty-five passengers, operated by a uniformed operator, which will, according to the applicants, be in harmony with the high-class service given by the Union Pacific Company on its trans-continental trains.

Motor Transit Company operates twenty auto stages daily each way in close proximity to the stations proposed to be served by the Union Pacific Stage Company. It offers to make the small deviations from its route necessary to serve the stations of the Los Angeles and Salt Lake Railroad Company and offers to meet the main line trains to be served, either by its regular scheduled runs or by sending extra coaches to meet the trains when they are late or when it otherwise becomes necessary. It also offers joint rates. Its rates are somewhat lower than those of the Los Angeles and Salt Lake Railroad Company.

As to the service for the interstate passengers no certificate is necessary, this involving an interstate operation. It appears, then, that a certificate is desired for the service of an average of one intrastate passenger a day according to present traffic.

While the effecting of economies in rail operation is an end to be desired and encouraged, the effecting of an economy by the substitution of motor bus service is not in itself the equivalent of public convenience and necessity required to exist in order that certification may be allowed. Furthermore, it is perfectly apparent here that if economy is the end desired much greater economy is possible by the utilizing of the existing service of Motor Transit Company under a system of joint rates and under that company's offer of service. In view of the existing auto stage transportation and the offer of service by Motor Transit Company and of joint rates it can not be said that public convenience and necessity require the establishment of a new line. Burdening the highways with an additional stage line to transport the negligible amount of passengers indicated finds no justification.

Applicants express some fear that if the existing service of Motor Transit Company is utilized their passengers will not be accorded the requisite courtesy and that the service will not be of the high character which it is desired to give. The evidence before the Commission does not support the fears thus expressed. The service of the Motor Transit Company is subject to the control of the Commission and if it should develop that Motor Transit Company does not give satisfactory service, the order on this application will not be a bar to another application along the same lines if conditions justify.

I recommend the following form of order:

ORDER.

A public hearing having been held in the above entitled application, the matter having been duly submitted, the Commission being now fully advised, and basing its order on the findings of fact set forth in the preceding opinion and the record;

It is hereby ordered, that the application of the Los Angeles and Salt Lake Railroad Company for authority to discontinue passenger train service upon its Anaheim Branch be and the same is hereby granted.

It is hereby further ordered, that the application of the Union Pacific Stage Company for certificate of public convenience and necessity to operate a motor bus service in lieu of the service rendered by the Los Angeles and Salt Lake Railroad Company, referred to above, be and the same is hereby denied.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19156.

IN THE MATTER OF THE APPLICATION OF SOUTHERN PACIFIC COMPANY, LOS ANGELES AND SALT LAKE RAILROAD COMPANY AND PACIFIC FRUIT EXPRESS COMPANY FOR PERMISSION TO MAINTAIN AND CONSTRUCT ICING PLATFORMS WITH IMPAIRED CLEARANCES.

Application No. 14011.

Decided December 23, 1927.

CLEARANCES—ICING PLATFORMS.—Southern Pacific Company, Los Angeles and Salt Lake Railroad Company, and Pacific Fruit Express authorized to maintain and construct icing platforms with side clearances of not less than six feet eight inches from center line of adjacent tracks, provided that such tracks be used solely for icing of cars.

CLEARANCES—ICING PLATFORMS.—General Order No. 26-C not providing any special clearance exemptions for icing platforms, special clearances therefor should be taken care of by formal proceedings.

E. J. Foulds and H. W. Hobbs, by H. W. Hobbs, for all Applicants.
L. T. Jackson, for Los Angeles and Salt Lake Railroad Company, Applicant.
B. S. Oritenden, for Railroad Brotherhoods and Orders, Protestants.
Harry See, for the Brotherhood of Railroad Trainmen and Order of Railroad Conductors, Protestants.
G. F. Irvine, for Brotherhoods of Railroad Engineers and Firemen, respectively, Protestants.

CARR, *Commissioner.*

OPINION.

This is an application of Southern Pacific Company, Los Angeles and Salt Lake Railroad Company and Pacific Fruit Express Company, seeking permission to construct and maintain icing platforms with less side clearance than that prescribed in this Commission's General Order No. 26-C. Public hearings were held in this matter in San Francisco on October 7, November 4 and November 8, 1927.

In this Commission's former General Order No. 26-A, prescribing legal clearances for structures adjacent to tracks, special provision was made for icing platforms (Item 6 of Table 1, section 2), as the icing of refrigerator cars was considered as a special operation, which provision reads as follows:

The minimum clearance between the center line of a standard gauge track and icing platforms at elevation not less than 11' 0" above top of rail, provided suitable warning signs shall be maintained (this clearance not permitted adjacent to main line, drill or important switching lead tracks), shall be six feet six inches (6' 6").

Also, the Commission, by letter dated August 31, 1916, when General Order No. 26 was in effect, informally granted Pacific Fruit Express Company, one of the applicants herein, permission to maintain and construct icing platforms with a minimum side clearance of six feet eight inches from the center line of the track and in Decision No. 3621 formally dismissed Application No. 2391, seeking such permission, on the ground that the matter had been taken care of informally. It appears that most of the icing platforms heretofore constructed and now maintained and operated by applicants fail to meet the general side clearance requirements for other structures, as set forth in section 2 (a) of this Commission's General Order No. 26-C now in effect.

General Order No. 26-B (effective January 1, 1927) did not provide any special clearance exemption for icing platforms. At an engineering conference held prior to the drafting of General Order No. 26-C (effective April 1, 1927), at which the Commission's Engineering Department was represented, it was agreed that any special clearances for icing platforms would be taken care of by subsequent formal proceedings and, therefore, no exemption was made in this general order specifically relating to icing platforms. In accordance with the above verbal agreement, the pending application was filed with the Commission on August 19, 1927.

Applicants contend that icing platforms constructed with the minimum clearance of six feet eight inches do not present a serious hazard to trainmen in the operation of trains on adjacent tracks, supported by accident records; that if a side clearance of 8 feet 6 inches is required for icing platforms, it will increase the cost of operation, as well as the hazard to the employees engaged in icing cars; that it is a great convenience to use the icing tracks for other purposes than for the operation of icing cars; and that it would mean a hardship to the company if the use of such tracks were restricted to icing operation only.

Witnesses for the railroad employees' organizations, protestants to the granting of this application, urged that icing platforms constructed with less than eight feet six inches side clearances present a serious hazard to trainmen, and make it more difficult for them to perform their duties in the handling of trains on such tracks; that tracks adjacent to icing platforms are commonly used for other purposes than the icing of cars, such as for switching and storage purposes; that a regulation, restricting the use of the icing tracks, would be difficult to enforce; and that, in their opinion, future extension or new construction of icing platforms should conform to clearances as prescribed in General Order No. 26-C.

From the records, it appears that by restricting the use of tracks adjacent to icing platforms solely to the operation of icing cars, the construction and operation of icing platforms with a minimum side clearance of six feet eight inches will not present an unduly serious hazard to the trainmen, provided such structures are properly illuminated, if any operation is performed on such tracks at night, and that the reduction in hazard to the trainmen that would result from increasing the side clearance to eight feet six inches for this particular operation does not offset the added hazard to other employees engaged in the operation of icing the cars and the convenience and economy in such operation.

The following form of order is recommended:

ORDER.

Southern Pacific Company, Los Angeles and Salt Lake Railroad Company and Pacific Fruit Express Company, having made application for authority to maintain and construct icing platforms at clearances less than those prescribed in the Commission's General Order No. 26-C, public hearings having been held, the Commission being apprised of the facts, the matter being under submission and ready for decision; therefore,

It is hereby ordered, that the above entitled application be and it is hereby granted, subject to the conditions hereinafter specified.

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) Said icing platforms may be constructed, operated and maintained substantially in accordance with the plans submitted in this proceeding and marked "Pacific Fruit Express Company's Standard Icing Platforms," provided, that the side clearances of said platforms shall not be less than six feet eight inches from the center line of main tracks, and provided, further, that tracks adjacent to said icing platforms shall be used solely for the icing of cars. If tracks adjacent to icing platforms are to be used for any other operation than the icing of cars, the icing platforms shall be constructed, operated and maintained with side clearances of not less than eight feet six inches.

The authority herein granted shall become effective on the date of the foregoing opinion and order.

The foregoing opinion and order are hereby approved and ordered as the opinion and order of the Railroad Commission of the State of California.

Witness my hand at San Francisco, California, this twenty-third day of December 1927.

DECISION No. 19157.

THE MATTER OF THE INVESTIGATION OF THE COMMISSION'S OWN MOTION INTO THE FAILURE OF GEORGE A. SCOTT, DOING BUSINESS UNDER THE FICTITIOUS NAME AND STYLE OF SCOTT STAGE COMPANY OR SCOTT STAGE CO., TO FILE HIS ANNUAL REPORT FOR THE YEAR 1926, AS PROVIDED BY STATUTE AND THE RULES AND ORDERS OF THIS COMMISSION.

Case No. 2438.

Decided December 23, 1927.

ANNUAL REPORT—FAILURE TO FILE.—Investigation into the failure of Geo. A. Scott, operating under the name of Scott Stage Company, to file his annual report for the year 1926 dismissed.

REPORTS—ANNUAL REPORTS—FAILURE TO FILE.—Defendant having explained why his annual report was not filed with the Commission, and having filed said report subsequent to the hearing, an investigation to determine whether the statutory penalties should be invoked and defendant's certificate revoked was dismissed.

Witness my hand and seal at San Francisco, California, this 23rd day of December 1927.

Commissioner.

OPINION.

George A. Scott appeared before me at the hearing had on December 1927, and explained why his 1926 annual report was not filed with the Commission and stated that the report would be filed forthwith. The report was received on December 7th. I am of the opinion that the reasons stated by George A. Scott why his report was not filed subsequent to the hearing warrants the Commission to dismiss this proceeding. I therefore submit the following form of order:

ORDER.

The Commission having instituted a proceeding to determine whether the penalties provided by statute should be invoked against George A. Scott and his certificate or certificates of public convenience and necessity revoked, a public hearing having been held, and being of the opinion that this proceeding should be dismissed;

It is hereby ordered, that this proceeding be and the same is hereby dismissed.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19158.

IN THE MATTER OF THE ESTABLISHMENT OF REGULATIONS GOVERNING THE FILING WITH THE RAILROAD COMMISSION OF REPORTS OF ACCIDENTS BY OPERATORS OF AUTOMOTIVE PASSENGER STAGES.

Case No. 2415.

Decided December 23, 1927.

ACCIDENTS—AUTO STAGES—REPORTS OF.—General Order No. 81 adopted providing for reports of accidents occurring in connection with the operation of automotive passenger stages.

ACCIDENTS—AUTO STAGES—REPORTS OF.—Automotive stage companies ordered to give telegraphic or telephonic advice to the Commission of accidents where death or serious injury occurs, and to make monthly reports covering any and all classes of accidents. (General Order No. 81.)

REPORTS—AUTO STAGE ACCIDENTS—PUBLICITY OF.—As to the liability of reports on automotive stage accidents of a confidential nature being allowed to pass into the hands of unauthorized parties, this condition is amply protected by section 28 of the Public Utilities Act.

Morrison, Hohfeld, Foerster, Shuman and Clark by Coolidge Kreis, for San Diego Electric Railway.

Earl A. Bagby, for California Transit Company, Golden Gate Stages, and W. E. Travis, President of Motor Carriers Association.

C. E. Brown, for Napa Valley Bus Company.

Brobeck, Phleger and Harrison, by F. S. Richards, for Yosemite Park and Curry Company and Key System Transit Company.

Gibson, Dunn and Crutcher, by Paul R. Watkins, for Los Angeles Railway Company.

H. D. Turner, for Pacific Electric Railway Company and Los Angeles Motor Bus Company.

H. W. Regan, for Peninsula Rapid Transit Company.

CARR, Commissioner.

OPINION.

This is an investigation of the Commission's own motion into the reasonableness and proper practice in the matter of the establishment of regulations by general order for the filing with this Commission of reports of accidents by operators of automotive passenger stages.

A public hearing was held in the courtroom of the Commission on October 18, 1927, at which time the matter was taken under submission.

The motor carriers urged, at the hearing, that physical conditions in regard to accidents resulting from the operation of motor stages and busses were materially different from those occurring at railroads, which difference in conditions rendered the immediate reporting of accidents by stage companies less necessary than the reporting of accidents by railroad companies, as required by the Commission's General Order No. 22 and Supplement No. 1 thereto. Motor stage or bus operation is generally conducted along heavily traveled main highways or streets in company with all other highway and street traffic, whereas railroads generally operate on privately owned right of way with only their own traffic, except at highway intersections.

This traffic condition on highways results in many accidents beyond the control of the motor stage or bus drivers and the responsibility for accidents is often not determined until judgment is rendered by a court. The amount of traffic on main highways is generally so dense as to require the immediate removal of disabled vehicles from the exact location of the accident, therefore the Commission could not hope to obtain much first-hand information on the ground in most cases, when it is considered that the Commission has not sufficient inspectors to immediately investigate all accidents when notified. In the case of a railroad accident, especially of one of any material importance, the physical conditions are not usually corrected for a number of hours, which permits of a study of the causes leading up to the accident.

Also railroad companies often hold "Boards of Inquiry" on accidents whereas automotive stage companies do not.

Several of the stage companies expressed concern as to the liability of reports on accidents of a confidential nature being allowed to pass into the hands of unauthorized parties, but this condition is amply protected by section 28 of the Public Utilities Act.

Due consideration of the record adduced at the public hearing held October 18, 1927, leads to the conclusions that telegraphic advice to the Commission of accidents should only be required in accidents where death or serious injury occur, that monthly reports should be made to the Commission covering any and all classes of accidents that may be required and in such form as the Commission may from time to time prescribe.

The following form of order is recommended:

ORDER.

An investigation having been instituted on the Commission's own notion into the reasonableness and proper practice in the matter of the establishment of regulations by general order of the filing with this

Commission of reports of accidents by operators of automotive passenger stages, and the matter being under submission and ready for decision:

The Railroad Commission of the State of California hereby finds as a fact that certain rules and regulations governing the filing with this Commission of reports of accidents by operators of automotive passenger stages, as prescribed in this Commission's General Order No. 81, are reasonable, just and necessary for the public health and safety. Basing its order on the above findings of fact;

It is hereby ordered, that from and after the effective date of this order, regulations attached hereto shall apply to the filing with this Commission of reports of certain accidents occurring in connection with the operation of automotive passenger stages. Said regulations shall be known as General Order No. 81.

The effective date of this order shall be January 15, 1928.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1927.

GENERAL ORDER No. 81.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.
REGULATIONS GOVERNING REPORTS OF ACCIDENTS OF AUTOMOTIVE PASSENGER STAGES.

Issued by the Railroad Commission of the State of California in pursuance with section 44 of the Public Utilities Act.

Approved December 23, 1927. Effective January 15, 1928.

Accidents Due to the Operation of Automotive Passenger Stages.

1. Reports by Telegraph or Telephone.

The owner or operator of any automotive passenger stage involved in any accident resulting in death or serious injury to any person or persons shall immediately notify the Railroad Commission by telegraph or telephone and provide the following information: The date, time, place and nature of the accident; the number of persons killed or seriously injured. Notice shall be given to the Railroad Commission sufficiently in advance of the time and place of any investigation or hearing, if any is held, at which testimony or statements of employees or witnesses will be taken, to enable the Commission, or its authorized employees, to attend.

2. Written Reports.

The owner or operator of any automotive passenger stage shall also provide the Commission with monthly reports, in writing, of all acci-

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dents in which a person or persons are killed or seriously injured; and if, in the future, it is found desirable to have monthly reports filed of other classes of accidents, the motor carriers shall file such reports upon request of this Commission.

Said reports shall be filed not later than the fifth day of the month and shall contain the following information in full for each accident reported:

1. Name of carrier operating bus or stage.
2. Date of accident and time of day or night.
3. Location of accident. At or near what town or city, county.
4. Road on which accident occurs, direction of travel and approximate distance from town or city named in 3.
5. Weather conditions and condition of road.
6. Speed of stage.
7. Estimated damage to stage.
8. Number of persons killed or injured (showing whether passenger, employee, etc).
9. Estimated time of disability of injured.
10. Nature and causes of and circumstances attending accident.
11. Name and title of officer sending report.

DECISION No. 19159.

ALBERS BROS. MILLING CO., A CORPORATION,

vs.

SOUTHERN PACIFIC COMPANY, A CORPORATION.

Case No. 2325.

Decided December 23, 1927.

RATES—RAILROAD—GRAIN AND FLOUR.—Carload rates on grain and flour between various points held unreasonable and excessive and defendant carrier ordered to establish within forty-five days rates found reasonable.

RATES—REASONABLENESS—FACTORS CONSIDERED—COMPARISON OF RATES.—Exhibits comparing California grain rates with rates on grain in the southwestern territory and elsewhere are not of controlling importance for rate-making purposes by reason of the different conditions existing.

RATES—RAILROAD—GRAIN AND FLOUR.—Complainant proposed as reasonable maximum rates for grain in California a distance scale prescribed by the Interstate Commerce Commission (101 I. C. C. 116) commonly referred to as the Southwestern Scale, and on flour 110 per cent of the rates contemporaneously proposed on grain to be held as maximum, permitting any lower rates to continue in effect. There being many rate schedules not referred to by complainant where flour rates fail to reflect any uniform percentage relationship to the grain rates, this demonstrates that flour rates are responsive to the needs and the circumstances and conditions existing in the territory where applicable.

REPARATION—CIRCUMSTANCES DETERMINING RIGHT—READJUSTMENT OF RATES.—Where rates in issue to a greater or less extent represent a general readjustment over a large territory, reparation will not be awarded.

RATES—RAILROAD—GRAIN AND FLOUR.—Flour rates in California are not constructed with any definite relationship to the rates on grain, and if any relationship were established some consideration could probably be given to the average loadings of the commodities.

C. S. Connolly, for Complainant.

F. W. Mielke and *L. N. Bradshaw*, for Defendant.

E. B. Smith and *E. S. Williams*, for Sperry Flour Company, Intervener.

J. P. McCarthy, for Phillips Milling Company, Intervener.

BY THE COMMISSION.

OPINION.

The complainant, Albers Bros. Milling Company, is a corporation organized under the laws of the state of Oregon, with offices at 332 Pine street, San Francisco, and is engaged in the business of buying, selling and manufacturing grain and grain products at various points in the states of California, Oregon, Washington and elsewhere. By complaint duly filed and as amended it is alleged that the carload rates on grain and flour between Dorris, Cole, Redding, Durham, Josephine, Williams, Marysville, and numerous other points north of Marysville and Woodland, also Oakland, on the one hand, and Watsonville, Santa Barbara, Los Angeles, San Bernardino, Riverside, Fresno, Bakersfield, El Centro and Calexico and the intermediate points on the other hand, are unjust and unreasonable and in violation of section 13 of the Public Utilities Act.

Reparation and just and reasonable rates for the future are sought. Rates will be stated in cents per 100 pounds.

The Sperry Flour Company and the Phillips Milling Company intervened in behalf of complainant, but the Phillips Milling Company presented no exhibits or testimony.

Public hearings were held before Examiner Geary, and the matter having been duly submitted is now ready for our opinion and order.

Complainant operates a mill at Oakland, and the intervener Sperry Flour Company, a mill at South Vallejo, for the cleaning, milling and manufacturing of grain into various kinds of flour and grain products, and they also have distributing warehouses located at important points throughout the state. The mills of both companies are located on tidewater, and the grain is transported either all rail, rail and water, or by water carriers from points in California, Idaho, Oregon, Montana, and the middle western states. The California grains are secured chiefly from the San Joaquin, Sacramento and Salinas valleys. The manufactured products are marketed principally at points north of Bakersfield and Santa Barbara, although substantial shipments are made to Los Angeles, Riverside, and other points in southern California.

Exhibits were introduced showing acreage and yield per acre within California of wheat, oats, barley and corn. These statements cover statistics secured from reports of the California State Board of Agriculture beginning with the year 1868 and including 1925. At one time

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It was of paramount importance and in 1868 the acreage was 1,000; in 1884 this had increased to 3,360,000, and in 1925 it had diminished to 603,000. The productive acreage in oats has been fairly constant, being in 1925 151,000 acres. Barley shows a decline from 1,500,000 acres were planted, to 1925, with 1,040,000 acres. Wheat has never been produced in any great quantity in California and peak acreage appears to have been in the year 1891, when 161,470 acres were planted, as compared with 85,000 acres in 1925. The total acreage of these four staple grains, wheat, oats, barley and corn, for the year 1925 represented 1,879,000 acres. The record contains exhibits and information comparing the California grain rates with the rates in the southwestern territory and elsewhere, but the exhibits are of controlling importance for rate-making purposes by reason of the different conditions existing. As illustrative, the state of Kansas planted to these four grains in 1925 a total of 17,316,000 acres, Nebraska 17,815,000, Nebraska 14,708,000, Oklahoma 7,273,000, and Texas 1,000 acres, these five states alone having 62,292,000 acres as compared with 1,879,000 acres in the state of California.

Stated in another way, the five principal railroads operating in the southwestern states secure 14.7 per cent of their total carload tonnage for the grains as compared with 3.3 per cent secured by the Southern Pacific. In cars the total number of the Southern Pacific in 1924 was 100 and via the five major lines in the southwestern territory, Atchafalaya, Topeka and Santa Fe, Rock Island, Missouri Pacific, Missouri, Kansas and Texas, and St. Louis and Santa Fe, a total of 399,717 cars. Water-borne grain through the port of Los Angeles is a controlling factor in the volume of the grain rates to southern California, as is clearly shown by an exhibit showing the movement of grain, flour and meal, which for the year 1925 was 90,161 tons, for 1926, 93,987 tons, for 1927 estimated at 79,593 tons.

The complainant proposes as reasonable maximum rates for application in California a distance scale prescribed by the Interstate Commerce Commission in *Corporation Commission of Oklahoma et al. vs. Abilene Southern Railway Company et al.*, 101 I. C. C. 116, commonly referred to as the Southwestern scale. It also proposes on flour 110 per cent of the rates contemporaneously proposed on grain, to be held in abeyance, permitting any lower rates to continue in effect. The basis for the flour rates was arrived at from a study of the transcontinental and certain flour tariffs. However, there are many rate schedules not referred to by complainant where the flour rates fail to reflect a uniform percentage relationship to the grain rates, thus demonstrating that flour rates are responsive to the needs and the circumstances and conditions existing in the territory where applicable.

Exhibits were offered by complainant showing various distance scales applicable on grain and flour in and between various states, which in some instances are lower and in others higher than the rates in California for comparable distances.

The California grown wheat is desirable for the manufacture of certain kinds of flour and cereals, and is freely used by the parties to this proceeding. The production for the year 1927 is estimated to be greatly in excess of that during the year 1926, and the California millers propose to use as much of this wheat in their operations as conditions will permit. It is alleged the through published rates on grain and flour frequently influence the point of purchase of the grain, and where no through published rates are in effect the California millers are required to pay the local rates into the milling points and the rates on the manufactured product from such point to the place of consumption, and such combinations result in rates relatively higher, distances considered, than rates available to complainant's competitors located outside of California who market their products within this state and secure the benefit of transit privileges under through published rates.

Exhibits were submitted to show a large movement of grain and its products by water carriers from points in the northwest, principally Oregon, Washington and Idaho, to San Francisco Bay points and Los Angeles territory. There is also a heavy tonnage of grain into Oakland and South Vallejo by boats operating on San Francisco Bay and its tributaries. This water-borne tonnage, it is claimed by the defendant, has had a depressing effect on the rates, resulting in subnormal adjustments and creating situations which could not be avoided by reason of this competition.

The average per car loading of all grains on the Southern Pacific for the year 1926 was 77,800 pounds, and on grain products including flour, 56,200 pounds; or on a percentage basis the per car loading of grain was approximately 38.4 per cent greater than on grain products. The flour rates in California are not constructed with any definite relationship to the rates on grain, and if any relationship were established some consideration could properly be given to the average loadings of the commodities.

Wheat and flour in California move almost entirely on commodity rates, which bear no fixed relationship to each other, neither do they represent any given percentage of the class rates.

The record shows that grain and flour rates via the Southern Pacific between points in the State of California are blanketed over long distances in order to permit the commodities to reach the consuming markets. As illustrative, the rate on whole grain of 21½ cents applying from Stockton to Los Angeles is blanketed in the intermediate territory for a distance of 273 miles, Stockton south to and including Cable. The

ne is true of flour, where there is a rate of 35 cents from Marysville Los Angeles, which rate applies in the blanket to and including ble, a distance of 367.5 miles. If grain and flour rates were measured sponsive to the actual distance of haul, the producer furthest from the assuming markets of San Francisco and Los Angeles would operate to severe disadvantage and might in some situations be practically minated because of the water-borne grains.

Defendant's traffic witness testified with reference to the operating nditions prevailing in the California territory and also placed great ress on the contention that the harbors in operation along the expanse ocean, as well as the competition met by reason of the water-borne ain tonnage between local points particularly in northern California ere much of the grain produced is adjacent to the Sacramento River, e San Francisco Bay and its tributaries, have governed grain rates. e many exhibits introduced by the defendant, the complainant, and e intervener have been given our careful consideration.

There is now pending before the Interstate Commerce Commissioncket No. 17000, Part 7, an investigation into the rates applying to ain and grain products, and also Case No. 2323, an investigation on is Commission's own motion. These proceedings involve the general vel of all rates on grain and grain products between all points in alifornia, and are correlated, and therefore the rates established by e order made herein are not prejudicial in any manner to the findings rived at in the proceedings referred to.

After consideration of all the facts of record we are of the opinion d find that the rates assailed are unreasonable and in violation of ction 13 of the Public Utilities Act to the extent that they exceed e rates set forth below.

Rates in Cents per 100 Pounds.

To	From													
	Cole-Dorris		Redding		Durham		Wil-liams		Joseph-ine		Marys-ville		Oak-land	
	Column A	Column B	Column A	Column B	Column A	Column B	Column A	Column B	Column A	Column B	Column A	Column B	Column A	Column B
esno	41	46	33½	42	--	34½	26	34½	26	34½	--	30½	--	--
kersfield	45	50	37½	46	30	38½	30	38½	30	38½	--	--	--	--
s Angeles	46	51	--	--	--	--	--	--	--	40	--	--	--	--
atsonville	41	46	33	41½	32	37½	--	--	--	35½	--	--	--	--
nta Barbara	46	51	--	48½	--	40	--	40	--	40	--	--	--	--
n Bernardino	50	55	44	52½	--	47	--	46	--	46	--	--	--	--
lexico	56½	63½	50½	57½	48½	55½	44½	51½	44½	51½	44½	51½	41	48

Column A rates are applicable to grain and articles taking same rates as described Southern Pacific Company Tariff 793-B, C. R. C. 2487.

Column B rates are applicable to flour and articles taking same rates as described Southern Pacific Company Tariff 659-C, C. R. C. 2500.

We shall not prescribe rates from or to intermediate points, as the cord shows they are of small importance, but defendant will readjust ese rates in harmony with those herein set forth, giving proper con- leration to the groupings and the differences between the grain and e flour rates.

There remains for consideration complainant's prayer for reparation, but since the rates here in issue to a greater or less extent represent a general readjustment over a large territory, we adhere to previous decisions of this Commission and the Interstate Commerce Commission, and accordingly find that reparation should be denied.

ORDER.

This case being at issue upon complaint and answers on file, and having been duly heard and submitted by the parties and full investigation of the matters and things involved having been had, and basing this order upon the findings of fact and the conclusions contained in the opinion which precedes this order;

It is hereby ordered, that defendant, Southern Pacific Company, be and it is hereby directed to cease and desist on or before forty-five days from the date of this order and thereafter to abstain from publishing, demanding or collecting for the transportation of grain and flour and articles taking the same rates, in carloads, as described in Southern Pacific Company Tariffs 793-B, C. R. C. 2487, and 659-C, C. R. C. 2500, rates which exceed those prescribed in the opinion which precedes this order.

It is hereby further ordered, that defendant, Southern Pacific Company, be and it is hereby directed to establish on or before forty-five days from the date of this order and upon notice to this Commission and the general public by not less than five days' filing and posting in the manner required by law and thereafter to maintain and apply for the transportation of grain and flour and articles taking the same rates, in carloads, as described in Southern Pacific Company Tariffs 793-B, C. R. C. 2487, and 659-C, C. R. C. 2500, rates which shall not exceed those prescribed in the opinion which precedes this order.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19160.

IN THE MATTER OF THE APPLICATION OF (1) THOMAS R. CARPENTER (INGLEWOOD TRANSIT LINE) FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE (2) STAGE LINE AUTO SERVICE BETWEEN INGLEWOOD TERMINAL AND MANHATTAN BEACH FROM QUEEN AND MARKET AND THENCE SOUTH ON MARKET TO MANCHESTER AVENUE, THENCE WEST ON MANCHESTER AVENUE TO EUCALYPTUS STREET, SOUTH ON EUCALYPTUS TO ARBOR VITA, WEST ON ARBOR VITA TO INGLEWOOD AVENUE, THENCE SOUTH ON INGLEWOOD TO CENTER, THENCE WEST ON CENTER TO TERMINAL AT CENTER AND MANHATTAN AVENUE, CITY OF MANHATTAN BEACH.

Application No. 14150.

Decided December 23, 1927.

CERTIFICATES—AUTO STAGE.—T. R. Carpenter (Inglewood Transit Line) authorized to operate an auto stage service between Inglewood and Manhattan Beach along a specified route.

EVIDENCE—WEIGHT AND SUFFICIENCY.—An assertion of a protestant stage operator that he has, for a period of two years, maintained a particular service at a loss of ten cents per car mile of operation, when not supported by any records or figures, must be received with doubt as to its accuracy.

AUTOMOTIVE TRANSPORTATION—SAFETY.—An auto stage operator must adhere strictly to the rules of the Commission in regard to safety devices and other regulations, such as the carrying of fire extinguishers on equipment, indemnity insurance, etc.

AUTOMOTIVE TRANSPORTATION—CERTIFICATES—IN GENERAL.—A certificate for auto stage operation was granted with the understanding that, applicant pioneering a field not occupied, the proposed service may require readjustments from time to time to make it fit with the express public need.

Ernest M. Mansur, for Applicant.

F. L. Perry, for City of Manhattan Beach, Interested Party.

Collamer A. Bridge, for D. B. Maurice, Protestant.

H. G. Weeks, for Los Angeles Railway Corporation, Interested Party.

Mrs. F. A. Martin, for Wiseburn Improvement Association, Interested Party.

J. Gordon Mills, Deputy City Attorney, for City of Inglewood, Interested Party.

BY THE COMMISSION.

OPINION.

Thomas R. Carpenter has made application to the Railroad Commission for a certificate of public convenience and necessity to operate an automobile service for the transportation of passengers between Inglewood and Manhattan Beach, Los Angeles County.

A public hearing herein was conducted by Examiner Williams at Inglewood, at which time the matter was duly submitted and now is ready for decision.

Applicant now conducts a service, under authority of this Commission (Decision No. 16213 in Application No. 12121), from the city of Inglewood to a point in Los Angeles County at the intersection of Belleview avenue and Inglewood avenue. The new operation proposed by applicant will follow the same route as his present operation but will continue south from the intersection along Inglewood boulevard to Center street and thence west on Center and other streets into the city of Manhattan Beach, serving the intermediate community of Wiseburn and several other smaller developments and rural population. Applicant proposes an hourly service from each terminal between the hours of 7 a.m. to 8 p.m. His Inglewood terminal will be at Queen and Market streets and his Manhattan Beach terminal at Center street and Manhattan avenue. He proposes to use 23-passenger equipment and to furnish equipment necessary for an adequate service.

He proposes a single fare rate of 20 cents between termini and a round trip rate of 35 cents. Proportionate rates for intermediate points were also offered with a proviso, however, that he will transport no passengers in competition with his present service between Inglewood and the intersection of Belleview avenue and Inglewood boulevard but will receive passengers for points south of this intersection or from

points south to be discharged north of the intersection. In view of the fact that his fare from and to points south of this intersection will be 10 cents, while the local fare is 5 cents, makes the operation practically noncompetitive.

Applicant has been engaged in the bus transportation business for eight years with success. Applicant was induced to undertake the service at the instance of the Chamber of Commerce of Manhattan Beach and with the cooperation of the Chamber of Commerce and Board of Trustees of the city of Inglewood, according to the testimony of Morton MacCormack. The basis of this demand from these bodies was the absence of direct communication between the two communities and the further fact that the establishment of direct communication would permit direct transfer to the system of the Los Angeles Railway and thus gain more rapid transportation to the southwestern part of the city of Los Angeles, where a great many of the beach city residents are employed, and also facilitate the transportation of students to the University of Southern California and other educational institutions in the southwest. The plan of operation and the service proposed appeared to be satisfactory to everybody participating in the hearing.

The applicant was supported by the testimony of George E. Delavan, mayor of Manhattan Beach, Morton MacCormack, secretary of the Manhattan Beach Chamber of Commerce, Mrs. Alice Martin, president of the Wiseburn Improvement Association, J. Gordon Mills, deputy city attorney of the city of Inglewood, Robt. Haengti, a member of the City Council of Inglewood, J. L. Steinbarger, president of the Chamber of Commerce of Inglewood, and several hundred other persons who were not called to the witness stand but who were present from both terminals and from Wiseburn for the purpose of adding their testimony to those of the officials presented. However, it was deemed unnecessary to accumulate such a mass of testimony as the reasons urged by the witnesses examined appeared ample in view of the absence of opposition. At present transportation between the two terminals is by a round-about method of bus or electric railway, involving transfers and delays, the most direct route being by way of Hermosa Beach with transfer to and from Manhattan Beach.

It was estimated by the witnesses that the service proposed by applicant will serve 1000 persons who now are at least from one to two miles from any other transportation; that it will be useful for the transportation of school children from districts not now supplied with free bus service; that it will form a direct and rapid communication between Manhattan Beach, a city of approximately 3500 population, and Inglewood with a population of approximately 20,000 and occupying an important social and commercial position in the southwestern portion of Los Angeles County and that it will furnish rapid transit

een both points and the southwestern portion of the city of Los
les.

Gordon Mills, representing the City Council of Inglewood, stated
that body had approved the service proposed.

ie only opposition presented was from D. B. Maurice operating,
r authority of this Commission, a service between Redondo Beach
Hermosa Beach to Inglewood by way of Redondo-Riverside boule-
and Hawthorne boulevard. This opposition was directed wholly
ast the terminal in Manhattan Beach, selected by applicant herein,
ing the same terminal as the one now used by protestant. Protes-
urged that if the applicant were permitted to receive passengers
ie same point where he has been taking them, it would seriously
re his business between Manhattan Beach and Inglewood via
nosa Beach. Protestant asserted that he maintained operation
een Manhattan Beach and Hermosa Beach, a distance of $2\frac{1}{2}$ miles,
more than two years at a loss of 10 cents per mile of operation.
estant stated that he operated four hundred car miles daily on
service which would mean a loss of \$40 daily. The showing was
supported by any records or figures and without such report
statement must be received with doubt as to its accuracy. The
ice alluded to by protestant is part of the service along the beach
een Manhattan Beach and Redondo Beach, but even if its entire
th, approximately six miles, were taken into consideration, it is
nceivable how this protestant could maintain this service at such
s for more than two years.

otestant further made no showing as to the number of passengers
ported by him from Manhattan Beach to Inglewood and presented
ing that would aid in measuring any injury that might be done
he service proposed. We must, therefore, regard his protest as
out real merit.

s Angeles Railway Corporation, while not opposing the application,
d applicant to discontinue his service at Belleview avenue and
ce turn easterly into the city of Hawthorne and connect with the
Angeles Railway at this point. This applicant declined to do as
fare between Hawthorne and Inglewood on the Los Angeles Rail-
is 5 cents and this revenue would go to the support of his opera-
rather than to the railway. This interested party did not further
the proposed modification.

careful review of the record herein indicates that there is a genuine
ic demand for the service proposed to be established, although the
rd does not furnish the best opportunity to judge what patronage
be bestowed by the public.

ie believe the certificate should be granted to the applicant with
understanding that he is pioneering a field not occupied and that

the service, as proposed, may require readjustments from time to time to make it fit with the express public need. We also caution applicant that he must adhere strictly to the rules of the Commission in regard to the safety devices and other regulations, it appearing in evidence by his own admission that he does not carry fire extinguishers on his present equipment, does not carry indemnity insurance and does not comply in some other respects with the standard of operation.

ORDER.

Thomas R. Carpenter, operating under the fictitious name of the Inglewood Transit Line, having made application to the Railroad Commission for a certificate of public convenience and necessity to operate an automobile service for the transportation of passengers between Inglewood and Manhattan Beach, a public hearing having been held, and the matter having been duly submitted and now being ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment by applicant of the service proposed herein over and along the following route: Between Inglewood Terminal and Manhattan Beach from Queen and Market and thence south on Market to Manchester avenue, thence west on Manchester avenue to Eucalyptus street, south on Eucalyptus to Arbor Vita, west on Arbor Vita to Inglewood avenue, thence south on Inglewood to Center, thence west on Center to Terminal at Center and Manhattan avenue, city of Manhattan Beach; and

It is hereby ordered, that a certificate of public convenience and necessity therefor be and the same is hereby granted subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

2. Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19161.

IN THE MATTER OF THE APPLICATION OF CALIFORNIA WATER SERVICE COMPANY, A CORPORATION, FOR (1) ORDER AUTHORIZING THE ISSUE OF STOCKS AND BONDS; (2) ORDER AUTHORIZING MORTGAGE OF CERTAIN PUBLIC UTILITY PROPERTIES AND (3) JOINTLY WITH C. B. JACKSON, CHICO WATER SUPPLY COMPANY, A CORPORATION, PORT COSTA WATER COMPANY, A CORPORATION, FRESNO CITY WATER CORPORATION, A CORPORATION, VISALIA CITY WATER COMPANY, A CORPORATION, ELECTRIC WATER COMPANY, A CORPORATION, BAKERSFIELD WATER WORKS, A CORPORATION, AND HERMOSA-REDONDO WATER COMPANY, A CORPORATION, RESPECTIVELY, FOR ORDER AUTHORIZING THE PURCHASE AND SALE OF CERTAIN PUBLIC UTILITY SECURITIES AND PROPERTIES, AND JOINTLY WITH PETALUMA POWER AND WATER COMPANY, A CORPORATION, BELVEDERE WATER CORPORATION, A CORPORATION, AND C. B. JACKSON, FOR ORDER AUTHORIZING THE PURCHASE AND SALE OF CERTAIN PUBLIC UTILITY SECURITIES AND PROPERTIES, ADDITIONAL PETITIONERS.

Application No. 13514.

Decided December 23, 1927.

SECURITY ISSUES—BONDS—STOCKS—TRANSFER.—By amendment of Paragraph VII of the order in Decision No. 18084, California Water Service Company authorized to issue and sell \$6,282,000 of first mortgage twenty-five year 5 per cent bonds at 92 per cent of face value; \$2,140,100 of 6 per cent cumulative preferred stock at 90 per cent of face value, and \$2,140,200 of common stock at 90 per cent of face value; also to purchase properties of Tuxedo Water Company, Belvedere Water Corporation, and Petaluma Power and Water Company.

SECURITY ISSUES—AMOUNT—VALUE OF PROPERTY AS BASIS.—In authorizing the issue of stocks and bonds the actual cost of constructing public utility properties, or if such cost is not known, the estimated original cost, giving due regard to the earnings thereof, is the proper basis for the capitalizing of properties. In case of refinancing existing properties, consideration must be given to depreciation. To deviate from this policy because some one has paid more for the property than its actual or estimated cost depreciated, is neither sound finance nor in the public interest.

SECURITY ISSUES—AMOUNT—ON CONSOLIDATION.—When called upon to authorize the issue of stock and bonds to refinance public utility properties the same principles should be adhered to as are followed when authorizing the issue of securities to finance properties to be constructed anew. An estimate of what it would cost to reproduce the properties new, whether depreciated or not, or even what a purchaser may have agreed to pay for the properties are too fanciful to warrant serious consideration.

SECURITY ISSUES—AMOUNT—CONSOLIDATION.—It was required as a condition concurrent with the issue of securities that applicant must acquire free and clear of all encumbrances all of the properties or stock (except cash for working capital) described in the application. The Commission fixed a maximum amount for such properties and stock, realizing that according to the record some one had agreed to pay more than that amount therefor. If necessary to

pay more the difference between the amount authorized and the price to be received by the vendors must be paid by some one other than applicant.

SECURITY ISSUES—AMOUNT—ABILITY TO PAY DIVIDENDS.—To recapitalize operating properties on a basis so that they can show only a return of 3 or 4 per cent on common stock is not in the public interest.

SECURITY ISSUES—MORTGAGE OR DEED OF TRUST PROVISIONS.—A provision in a mortgage and/or deed of trust that additional bonds may be certified by the trustee in amount equal to not exceeding 80 per cent of the cash cost or the fair value should be modified so that the trustee may not certify bonds in excess of 60 per cent of said cash cost or fair value, whichever is less.

McCutchen, Olney, Mannon and Greene, for Applicants.

Arthur H. Garland, Deputy Commissioner of Corporations.

E. F. Brittan, City Attorney, for City of Bakersfield.

Loren A. Butts, City Attorney, for City of Fresno and City of Visalia.

J. L. Johnson, City Attorney, for City of Stockton.

BY THE COMMISSION.

SECOND SUPPLEMENTAL OPINION.

By Decision No. 18084, dated March 21, 1927, as amended, the Commission authorized applicants Chico Water Supply Company, Port Costa Water Company, Visalia City Water Company, Fresno City Water Corporation, Electric Water Company, Bakersfield Water Works and Hermosa-Redondo Water Company, to sell and convey their properties to California Water Service Company, which was also authorized to acquire the stock of said corporations. It also authorized applicant C. B. Jackson to sell to the California Water Service Company the business and properties comprising the Chico Vecino Water Company (unincorporated), the business and properties comprising the W. E. White Water Company (unincorporated), a lot at Visalia and all his right, title and interest in and to the contract dated December 7, 1926, between him and Pacific Gas and Electric Company.

The Commission also authorized Pacific Gas and Electric Company to sell and convey direct to the California Water Service Company the properties, businesses, rights and privileges included in said contract of December 7, 1926, and any amendments or modifications thereof.

Subdivision seven of the order in Decision No. 18084 reads as follows:

"Applicant, California Water Service Company, is hereby authorized to issue \$2,000,000 par value of common stock and sell said \$2,000,000 of common stock, together with such additional stock (common and/or preferred) and bonds, which the Commission may hereafter authorize to be issued for not more than \$9,422,475 and use said \$9,422,475, or lesser amount, for the purposes set forth in the foregoing opinion, provided that the Commission is under no obligation to authorize the issue of securities equal in par value to the \$9,422,475, or lesser amount, and, provided further, that only such part of the \$9,422,475, or lesser amount, as may hereafter be determined by the Commission, shall be charged to fixed capital account."

In its petition filed on March 4, 1927, California Water Service Company asked, among other things, permission to issue and sell \$6,600,000 face value of 5 per cent first mortgage bonds to net the company 90 per cent of the face value thereof; \$2,150,000 par value of 6 per cent preferred stock to be sold at par less a commission of 13 per cent to net the

company 87 per cent of the par value thereof; and \$2,149,300 par value of common stock to be sold in such manner as to net the company 75 per cent of the par value thereof.

On October 1, 1927, a second amendment and supplemental petition was filed in which California Water Service Company seeks permission to purchase the properties of Belvedere Water Corporation, which supplies water to the inhabitants of the city of Belvedere and vicinity in Los Angeles County; of Petaluma Power and Water Company properties, which supplies water to the inhabitants of the city of Petaluma and vicinity, Sonoma County, and the water system owned by C. B. Jackson, and known as the Tuxedo Water Company, which supplies water to the inhabitants of a part of the city of Stockton, San Joaquin County. In said supplemental petition California Water Service Company, among other things, also requests permission to sell and issue the securities for cash, set forth in the amended supplemental petition filed on March 4, 1927; to issue and deliver to the Belvedere Water Corporation in full consideration for its properties and assets subject to its liabilities, \$1,036,000 of 5 per cent first mortgage bonds, \$362,000 par value of 6 per cent stock and \$362,000 par value of common stock. It also asks permission to issue and sell \$394,000 of first mortgage 5 per cent bonds at 90 per cent of the face value thereof, \$133,000 par value of 6 per cent preferred stock at par, less a commission of 13 per cent, and \$133,000 of common stock at par, less a commission of 25 per cent, and use the proceeds obtained from the sale of such securities to acquire the entire issue of capital stock and the redemption of the outstanding bonds of the Petaluma Power and Water Company and purchase the business, franchises and property comprising the Tuxedo Water Company. It is of record that after the acquisition of the stock of the Petaluma Power and Water Company, that company, if permitted, will cause its properties to be transferred to the California Water Service Company. The Belvedere Water Corporation, the Petaluma Power and Water Company, as well as C. B. Jackson, request permission to sell the properties now owned by them and referred to in the second supplemental petition to the California Water Service Company and thereafter to discontinue their respective public utility obligations and service.

On November 8, 1927, the third amended and supplemental petition was filed, in which California Water Service Company asks permission to issue \$240,000 face value of first mortgage 5 per cent bonds at 90 per cent of face value and accrued interest, \$50,000 par value of 6 per cent cumulative preferred stock to net the company 87 per cent of par value thereof and \$50,000 par value of common stock at 75 per cent of the par value thereof, and use the proceeds to pay the cost of additions and betterments to the following properties:

California Water Service Company-----	\$232,594 73
Belvedere Water Corporation-----	57,614 21
Petaluma Power and Water Company-----	18,021 86
Tuxedo Water Company (C. B. Jackson)-----	6,819 73

Total ----- \$315,050 53

The following statement shows in summary form the amount of securities which the California Water Service Company asks permission to issue:

(a) \$8,270,000 of 5 per cent first mortgage bonds at 90, netting--	\$7,443,000 00
(b) 2,695,000 of 6 per cent preferred stock at 87, netting-----	2,344,650 00
(c) 2,694,300 of common stock at 75, netting-----	2,020,725 00

Total \$13,659,300 \$11,808,375 00

It is of record that California Water Service Company has expended, or will, if authorized by the Commission, expend approximately \$11,344,000 to acquire the properties mentioned in this application. Deducting the 11,344,000 from the proposed net yield of the securities (\$11,808,375) leaves \$464,375 available for working capital. Further reference will hereafter be made to these matters.

Appraisals of the properties referred to in this proceeding have been made by The Loveland Engineers, Inc., and introduced as Exhibits 13-A, 13-B, 13-C, 14, 15 and 16 (for the appraisal of the Tuxedo Water Company properties see Application No. 13848). The Loveland Engineers report the reproduction cost new of the properties at \$18,396,566 and reproduction cost new less depreciation at \$16,540,651, and the estimated original cost at \$13,379,348. These figures do not include the \$315,050.53 alleged by the company to have been expended for additions and betterments, nor the \$464,375 of working capital which the company is providing in its proposed security issue.

The reproduction cost new, the reproduction cost new less depreciation and the estimated original cost of the properties is segregated by The Loveland Engineers as follows:

Item	Reproduction cost new	Reproduction cost new less depreciation	Estimated original cost
Lands -----	\$662,598 00	\$662,598 00	\$662,598 00
Physical properties -----	12,842,904 00	11,178,989 00	9,690,841 00
Totals -----	\$13,505,502 00	\$11,841,587 00	\$10,353,439 00
Additions to January 1, 1927-----	50,485 00	50,485 00	50,485 00
Preliminary expenses -----	86,000 00	86,000 00	86,000 00
Organization expenses -----	276,000 00	276,000 00	276,000 00
Cost of securing franchises-----	73,500 00	71,500 00	20,345 00
Water rights -----	506,000 00	506,000 00	496,000 00
Cost of acquiring lands and searching titles -----	35,598 00	35,598 00	35,598 00
Going concern value -----	1,745,000 00	1,745,000 00	1,745,000 00
Paving over mains not cut by company -----	1,802,000 00	1,612,000 00	-----
Additional materials and supplies--	166,481 00	166,481 00	166,481 00
Working capital -----	150,000 00	150,000 00	150,000 00
Total Loveland			
Engineers -----	\$18,396,566 00	\$16,540,651 00	\$13,379,348 00
Additions and betterments-----	315,050 53	315,050 53	315,050 53
Grand total -----	\$18,711,616 53	\$16,855,701 53	\$13,694,398 53

It is of record that the additions and betterments represent the amount of moneys expended for such purposes since the date of the Loveland appraisals of the properties. It would, therefore, appear that the \$50,485 which The Loveland Engineers report as additions to January 1, 1927, should be eliminated, for the reason that such additions are included in the \$315,050.53. It should also be noted that The Loveland Engineers include an allowance for working capital and materials and supplies. They estimate the depreciation reserve calculated on a 6 per cent sinking fund basis applicable to the original cost of the properties at \$1,056,745.

The valuation division of the Commission's Engineering Department has examined the cost estimates contained in Exhibits 13-B and 13-C. It estimates the reproduction cost new of the properties referred to in Exhibit 13-B at \$9,740,049 as compared with \$10,960,871 by The Loveland Engineers. The Commission's engineers calculated depreciation on a 5 per cent sinking fund basis instead of a 6 per cent basis, and also on a straight line basis. The Loveland Engineers report the depreciated reproduction cost new on a 6 per cent sinking fund basis at \$9,588,091, the Commission's engineers on a 5 per cent sinking fund basis at \$8,246,694 and on a straight line basis at \$7,328,414. The estimated historical cost of the properties, contained in Exhibit 13-C, is estimated by the Commission's engineers at \$7,562,427 and by The Loveland Engineers at \$8,316,781. The estimated historical cost less depreciation is reported by The Loveland Engineers on a 6 per cent sinking fund basis at \$7,754,652, by the Commission's engineers on a 5 per cent sinking fund basis at \$6,582,246, and on a straight line basis at \$5,838,999.

C. T. Chenery, president of the California Water Service Company, testified that in his opinion the fair or sound value of the properties involved in this application, including the \$464,375 of cash mentioned, is approximately \$15,500,000.

For the year ending October 31, 1927, the California Water Service Company reports the operating revenues of the properties involved in this proceeding at \$1,888,760.16 and the nonoperating revenues at \$9,005.06, making a total of \$1,897,765.22. The operating expenses, and taxes, exclusive of depreciation and federal income tax, are reported at \$1,031,689.61, leaving net operating income of \$866,075.61. The \$866,075.61 represents the amount available for depreciation, interest, amortization of debt discount and expense, federal income tax, dividends and surplus.

We are not here concerned with the financing of properties to be constructed *de novo*, but rather with the refinancing of properties in operation. Some of the properties have been in operation prior to, and ever since, March 23, 1912, the effective date of the Public Utilities

Act. Some of the corporations whose properties California Water Service Company seeks permission to acquire, have been organized since that date and financed under the Commission's supervision. These several utilities have regularly filed reports with the Commission and it, from time to time, has been called upon to adjust the rates of certain of them and investigate the service rendered by them. It appears to us that we are, in effect, asked to disregard whatever action the Commission may have taken as to these properties in the past and proceed to authorize a capitalization on a basis which will yield an amount of money equal to the price which the Federal Water Service Corporation or its subsidiaries or representatives have agreed to pay for the properties. We are told that as the purchaser is a

"corporation specializing in the operation of water properties, buying them and operating them in many states, it would be a reasonably fair assumption that, as we were spending our own money, we would not pay too much for these properties. In other words, that we would be in a position to make a fair and intelligent estimate of the value of these properties, and that any price that we were willing to pay for them would certainly not be an unreasonable price, and would certainly represent at least the true value of the properties,—minimum true value. In all cases we believe that the value is substantially more. But we thought this was a basis on which there could be very little controversy about financing."

In further support of the security issue, we are told that the sound value of the properties is \$15,500,000 and that the proposed bond issue is only \$8,270,000 or about 60 per cent of the sound value; that the interest on such bond issue was earned more than twice, which is regarded as a very favorable showing by underwriting syndicates; that the dividend on the preferred stock is likewise well protected and that the earnings on the common stock are about \$4 per share and therefore a price of \$75 per share is an adequate consideration to be paid for the common stock by the Federal Water Service Corporation.

C. T. Chenery testified that the common stock could not be sold to the general public under their financial program, and that the amount of common stock is immaterial, except for one reason, which he states as follows:

"The only reason that the amount of common stock involved is important is in the question of the control in the corporation. And under the California law I am told preferred stock has equal voting power with common. We stand squarely back of this financial program, take full responsibility for it, our full credit is involved in it, and therefore to that extent, we must have full voting power to make sure that the financial policies of this corporation are entirely sound ones. And that is the only reason that the question of the amount of common stock issue is of any moment to us at all."

In this connection it should be said that Federal Water Service Corporation, or its subsidiary, plan to acquire only the common stock of California Water Service Company. The plan submitted contemplates that the bonds and preferred stock will be sold to the general public

and of course to the extent that moneys are realized from the sale of such bonds and preferred stock, the Federal Company is not providing the moneys necessary to pay for the properties. In authorizing the issue of stocks and bonds the Commission has heretofore held that the actual cost of constructing public utility properties, or if such cost is not known, the estimated original cost, giving due regard to the earnings thereof, is the proper basis for the capitalization of the properties. In case of refinancing existing properties, consideration must be given to depreciation. To deviate from this policy merely because some one has acquired operating public utility property and for some reason has seen fit to pay for the property more than its actual or estimated cost depreciated, is in our opinion neither sound finance nor in the public interest. We believe that when we are called upon to authorize the issue of stock and bonds to refinance public utility properties, we should adhere in general to the same principles as are followed by us when authorizing the issue of securities to finance properties to be constructed anew. An estimate of what it would cost to reproduce the properties now, whether depreciated or not, an alleged sound value or even what a purchaser may have or has agreed to pay for the properties, are too fanciful to warrant serious consideration.

We have determined that the amount of cash which the California Water Service Company might be permitted to realize through the issue of securities is \$9,631,701.53. This amount was determined as follows:

Estimated historical cost by Loveland Engineers:

Physical properties	\$10,353,439 00
Land, present value.....	\$662,598 00
Other properties	9,690,841 00
Additions to January 1, 1927.....	50,485 00
Preliminary expense	86,000 00
Organization expense	276,000 00
Cost of securing franchises.....	20,345 00
Water rights	496,000 00
Cost of searching land titles.....	35,598 00
Going concern value.....	1,745,000 00
Adding materials and supplies.....	166,481 00
Working capital	150,000 00
Subtotal	\$13,379,348 00
Cost of additions.....	315,050 53
Subtotal	\$13,694,398 53
Working capital which company provides for in proposed security issue in addition to Loveland's.....	465,000 00
Grand total	\$14,159,398 53
Deductions:	
Water rights	\$321,000 00
Going concern value.....	1,745,000 00
Cost of searching land titles.....	35,598 00
Difference between Commission's engineers' estimate of historical cost and Loveland on properties contained in Exhibit 13-C.....	754,354 00

Working capital-----	\$465,000 00	
Organization and preliminary expense reduced by	150,000 00	
Depreciation—6 per cent sinking fund accumula-		
tion—Loveland -----	1,056,745 00	
		\$4,527,697 00
		<u>\$9,631,701 53</u>

We have no objection if 60 per cent of the \$9,631,701.53 is obtained through the issue of 5 per cent bonds, 20 per cent through the issue of 6 per cent cumulative preferred stock and 20 per cent through the issue of common stock. The order herein will provide that the bonds shall be sold for not less than 92 and accrued interest, and the preferred and common stock at not less than 90 per cent of par value net to the company. On these bases the company to realize \$9,631,701.53 would have to issue \$6,282,000 of bonds, \$2,140,100 of preferred and \$2,140,200 of common stock. The \$2,140,200 of common stock includes the \$2,000,000 of common stock authorized by Decision No. 16084, dated March 21, 1927. It will be noted that in determining the amount of securities we have included in the cost of properties the materials and supplies and working capital included in the Loveland appraisals and also the reported cost of additions and betterments. In the second amended petition it is recited that securities will be delivered in payment for the properties of Belvedere Water Corporation. We will not determine the amount of the securities that may be so delivered. The order will fix the maximum amount of securities which the California Water Service Company may issue and provide that they may be sold for cash and such cash used to pay for properties or stock or the securities in whole or in part may be delivered in payment for all or part of the properties. As a condition precedent to or concurrently with the issue of the securities the California Water Service Company must acquire free and clear of all encumbrances all the properties or stock, except the \$465,000 cash for working capital mentioned above, described directly or indirectly in this application. For such properties and stock it may not pay more than \$9,631,710. We realize that according to the record in this proceeding someone has agreed to pay more for the properties or stock. If it is necessary to pay more than \$9,631,710 for the properties or the stock of the several companies, the difference between the \$9,631,710 and the price which the vendors are to receive must be paid by someone other than California Water Service Company.

We reaffirm our opinion expressed in other decisions that to recapitalize operating properties such as are before us in this application on a basis so that they can show only a return of 3 or 4 per cent on common stock is not in the public interest.

There has been filed in this proceeding a copy of the proposed mortgage and/or deed of trust (Exhibit 4) which California Water Service

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any asks permission to execute to secure the payment of an
ized bond issue of \$25,000,000. We have examined the proposed
age and/or deed of trust and feel that it should be modified in
l particulars. As it now reads, it provides that after the issue
initial series of bonds, additional bonds may be certified by the
subject to the conditions set forth in the instrument in amount
to not exceeding 80 per cent of the cash cost or the fair value,
such fair value be less than the cash cost of property constructed
uired subsequent to February 1, 1927. This provision we believe
be modified so that the trustee may not certify bonds in excess
per cent of said cash cost or fair value, whichever is less. There
also be eliminated from the mortgage and/or deed of trust
nine, which gives certain immunity to incorporators, stock-
s, officers and directors. The elimination of article nine necessi-
corresponding change in the form of the bond.

re determining whether section eight of article III or subdivision
) of paragraph B under section three (3) of article II should
lified or eliminated, we desire to be furnished with a statement
g that an expenditure of an amount equal to 9 per cent of the
revenue is sufficient for the proper maintenance and replacement
ciation) of the properties, when such replacement becomes
ry. True, the 9 per cent represents the minimum amount that
be expended for such purposes, but occasionally the minimum
s the maximum in actual practice. A revised copy of the pro-
mortgage and/or deed of trust should be filed with the Com-
1.

SECOND SUPPLEMENTAL ORDER.

Railroad Commission having been asked to enter its order, as
ed in the foregoing opinion, and in the petitions filed in this
ding, public hearings having been held and the Railroad Com-
1 being of the opinion that it should authorize the California
Service Company to issue not exceeding \$6,282,000 of 5 per
venty-five year first mortgage bonds, not exceeding \$2,140,100 of
cent cumulative preferred stock, and not exceeding \$140,200 of
n stock, which common stock is in addition to the \$2,000,000 of
n stock authorized by said Decision No. 18084, that the money,
ty or labor to be procured or paid for by such issue is reasonably
ed by applicant, California Water Service Company; that the
litudes herein authorized are not in whole or in part reasonably
able to operating expenses or to income; that this application
far as it involves the issue of \$1,988,000 of bonds, \$554,900 of
red stock and \$554,100 of common stock should be dismissed
it prejudice; and that this application should be granted, as

provided in Decision No. 18084, dated March 21, 1927, as amended, and as provided in this second supplemental order; therefore,

It is hereby ordered, as follows:

1. C. B. Jackson may sell and convey to, and California Water Service Company may purchase, the properties described in this application as the Tuxedo Water Company.

2. California Water Service Company may purchase, hold and own the stock of the Petaluma Power and Water Company.

3. The Belvedere Water Corporation and Petaluma Power and Water Company, respectively, may sell and convey to, and California Water Service Company may purchase all of the business, assets and properties of said Belvedere Water Corporation and Petaluma Power and Water Company, subject to their outstanding liabilities at the date of the transfer.

4. C. B. Jackson, Belvedere Water Corporation and Petaluma Power and Water Company may abandon and discontinue their respective public utilities, obligations and service, if as and when the transfer of their properties to the California Water Service Company, shall become effective.

5. Paragraph seven of the order in Decision No. 18084 dated March 21, 1927, reading,

Applicant, California Water Service Company, is hereby authorized to issue \$2,000,000 par value of common stock, and sell said \$2,000,000 of common stock, together with such additional stock (common and/or preferred) and bonds which the Commission may hereafter authorize to be issued for not more than \$9,422,475 and use said \$9,422,475, or lesser amount, for the purposes set forth in the foregoing opinion, provided that the Commission is under no obligation to authorize the issue of securities equal in par value to the \$9,422,475, or lesser amount, and, provided, further, that only such part of the \$9,422,475, or lesser amount, as may hereafter be determined by the Commission, shall be charged to fixed capital account.

be and the same is hereby amended so as to read:

California Water Service Company may issue not exceeding \$6,282,000 of first mortgage twenty-five year 5 per cent bonds, not exceeding \$2,140,100 of 6 per cent cumulative preferred stock and not exceeding \$2,140,200 of common stock and sell said bonds at not less than 92 per cent net of their face value, and said preferred and common stock at not less than 90 per cent, net, of its par value. The proceeds obtained from the sale of said bonds and stock shall be used to pay in full for the properties which California Water Service Company is authorized to acquire by the authority granted in this order, and which are referred to in this decision, and by the authority granted in Decision No. 18084, dated March 21, 1927, provided that if California Water Service Company deems it necessary it may deliver on the bases stated, part of said bonds and stock in payment for the properties of Belvedere Water Corporation.

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Paragraph six of the order in Decision No. 18084 dated March 21, reading:

The purchase price of the properties which the California Water Service Company is hereby authorized to acquire shall not exceed \$9,422,475,

the same is hereby amended so as to read:

purchase price of the properties which the California Water Service Company is authorized to acquire by the authority granted in said Decision No. 18084 and by this order shall not exceed \$9,631,710.

California Water Service Company shall keep its accounts and records in accordance with the uniform classification of accounts prescribed by this Commission.

This application, in so far as it involves the issue of \$1,988,000 amount of bonds, \$554,900 par value of preferred stock and \$554,900 value of common stock be and the same is hereby denied without prejudice.

The authority herein granted to issue bonds will become effective if applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$3,641, and when the Commission has authorized applicant, California Water Service Company, to execute a mortgage and/or deed of trust to secure the payment of such bonds.

California Water Service Company shall keep such record of the sale and delivery of the bonds and stock herein authorized and disposition of the proceeds as will enable it to file on or before the twenty-fifth day of each month a verified report, as required by Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

The authority herein granted to transfer properties, acquire and stock, will become effective upon the date hereof.

Paragraph nine of the order in Decision No. 18084 dated March 27, reading:

Under the authority herein granted no properties may be transferred and no stock issued after December 31, 1927.

the same is hereby amended so as to read:

Under the authority herein granted no properties may be transferred and no bonds and stock issued after May 31, 1928.

Witness my hand at San Francisco, California, this twenty-third day of December 1927.

DECISION No. 19162.

MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE PRACTICES AND OPERATIONS OF MRS. HORNDYKE DUGGAN, OPERATING AN AUTOMOTIVE STAGE SERVICE FOR THE TRANSPORTATION OF PERSONS AND PROPERTY BETWEEN EAGLEVILLE AND CEDARVILLE AND A POINT

ON THE NEVADA-CALIFORNIA STATE LINE ON THE ROAD TO GERLACH, NEVADA.

Case No. 2421.

Decided December 23, 1927.

AUTOMOTIVE TRANSPORTATION—REVOCATION OF OPERATIVE RIGHT.—Automotive operative rights of Mrs. Thorndyke Duggan for the transportation of persons and property between Eagleville and Cedarville to a point on the Nevada-California State line on the road to Gerlach, Nevada, revoked because of unauthorized abandonment of service.

AUTOMOTIVE TRANSPORTATION—REVOCATION OF OPERATIVE RIGHTS.—An operator of auto stage service having discontinued and abandoned the operation thereof without securing the authorization of the Commission, the operative rights were revoked and annulled.

PLEADING AND PROCEDURE—HEARING—NOTICE OF—FAILURE TO APPEAR.—Where notice of the time and place of a hearing on an order to show cause why certain operative rights should not be revoked was served by registered mail upon respondent, who personally received and receipted for said notice, upon failure of respondent or any other person in her behalf to appear at the hearing, the record showing unauthorized abandonment of service, respondent's operative rights were revoked.

BY THE COMMISSION.

OPINION.

The above entitled proceeding was instituted by the Railroad Commission to determine whether or not the practices and operations of Mrs. Thorndyke Duggan were in any manner illegal or unlawful, in the operation of an automobile stage service for the transportation of persons and property between Eagleville and Cedarville and a point on the Nevada-California state line on the road to Gerlach Nevada and an order to show cause was directed to her to show cause if any she had, why all operative rights possessed by her under the Railroad Commission's Decision No. 13993, on Application No. 10400, for the operation of said automobile service between Eagleville and Cedarville and a point on the Nevada-California state line, should not be revoked and annulled because of abandonment of said service.

A public hearing on said matter came on regularly for hearing before Examiner Satterwhite at San Francisco at 10 a.m. on the fifth day of December, 1927, in the courtroom of the Commission, 520 State building, San Francisco.

Mrs. Thorndyke Duggan, said respondent, failed to appear at said hearing and no other person appeared in her behalf.

The record shows that a notice of the time and place of said hearing was served by this Commission, by registered mail, upon said respondent and that she personally received and receipted for said notice of hearing at San Francisco on the twenty-second day of October, 1927.

The evidence in this proceeding, as disclosed by the records, files and correspondence in said matter, shows that said respondent, Mrs. Thorndyke Duggan, has never at any time sought the permission or authority

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is Commission to discontinue the operation of the aforesaid service. rther appears that on or about December 31, 1925, she discontinued abandoned the operation of said automobile service between Eagle- and Cedarville and the point on the Nevada-California state line that ever since said date she has failed and neglected to operate automobile stage service.

ORDER.

ter a careful consideration of the evidence in this proceeding, and cause appearing therefor;

is hereby ordered, that the operative rights possessed by Mrs. ndyke Duggan, said respondent, under and by virtue of the Rail- Commission's Decision No. 13993, on Application No. 10400, for peration of an automobile service for the transportation of persons property between Eagleville and Cedarville and a point on the da-California state line on the road to Gerlach, Nevada, be and ame are hereby revoked and annulled.

is hereby further ordered, that the secretary of this Commission be he is hereby directed to serve, or cause to be served, by registered upon said respondent, Mrs. Thorndyke Duggan, a certified copy is order; and

is hereby further ordered, that the secretary of this Commission be he is ordered to forward to the district attorney of Modoc County tified copy of this decision.

is hereby further ordered, that the tariffs and time schedules ofore filed with the Railroad Commission covering said service be he same hereby are canceled.

e effective date of this order shall be the twelfth day of January,

ted at San Francisco, California, this twenty-third day of mber, 1927.

DECISION No. 19164

HE MATTER OF THE APPLICATION OF ROBERT GALLEGOS FOR AUTHORITY TO DISCONTINUE SERVICE OF WATER AT MISSION SAN JOSE, CALIFORNIA.

Application No. 14108.

Decided December 23, 1927.

SE—ABANDONMENT—WATER UTILITY.—Application of Robert Gallegos, rendering water service at Mission San Jose, Alameda County, for permission to discontinue service denied.

SE—ABANDONMENT—REASONS FOR—IN GENERAL.—When the owner of a water utility was authorized to transfer his system, but retained without authority five consumers, and later applies for authority to discontinue service, such application will be denied, where to authorize discontinuance would leave

such consumers without an adequate water supply, and the operations are actually earning a reasonable return upon that part of the investment properly chargeable to the service.

SCHEDULES AND TARIFFS—IN GENERAL.—When no schedule of meter rates has ever been established for a water system, it is necessary, when the utility is directed to install meters, to file formal application requesting that such a schedule be authorized.

Myron Harris and Leo Sullivan, by R. J. Darter, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by Robert Gallegos to discontinue the operation of a small public utility water system owned and operated by him and supplying water to consumers at Mission San Jose, in Alameda County.

The application alleges in effect that applicant formerly operated the public utility water system serving the town of Mission San Jose, Alameda County; that said service was operated by applicant until the twentieth day of December, 1924, at which time the said water system was transferred to Telles Brothers Water Company by authority of the Railroad Commission; that, as an accommodation, applicant continued to serve five of his neighbors who were being supplied with water from a separate pipe line on the Niles road; and that four of said consumers are paying a flat rate of \$1.50 per month and one consumer is paying a flat rate of \$2.50 per month for the use of water. It is further alleged that the returns for the service rendered are insufficient to reimburse applicant for the time and effort required to maintain the service. The applicant therefore asks the Railroad Commission to authorize the discontinuance of this service and to be relieved from his public utility obligations.

A public hearing in this matter was held before Examiner Gannon at Mission San Jose, Alameda County, on November 1, 1927, after all interested parties had been notified and given an opportunity to appear and be heard.

The Mission San Jose water system was originally installed about 1869 and came into possession of Juan Gallegos, father of applicant, in 1880. Water was supplied from three springs on the Gallegos property, delivery being made by gravity. About the year 1900, the Pacific Gas and Electric Company installed a substation on the highway near Mission San Jose and laid about 3200 feet of 2-inch standard screw pipe to the Gallegos system in order to secure water service. Subsequent to the abandonment of the substation some years later, Gallegos continued to serve certain additional consumers who in the meantime had been connected to this line.

The evidence shows that within the area in which applicant's present consumers reside the underground formation is such that it is

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remely difficult to obtain adequate water for household and domestic poses from well sources, except at a practically prohibitive expense. The water supply for the Telles Brothers Water Company is now inefficient to supply the demands of its present patrons and for this reason applicant's consumers can not be served from this source. There is then no source of water available to these five consumers other than that now received. At the time applicant was authorized to sell his Mission San Jose system, he retained without authority the consumers he is now serving. To authorize the discontinuance would leave these consumers without an adequate water supply through fault of their own.

In view of these circumstances, together with the additional fact that the evidence shows that applicant has a large volume of gravity water available for this service and that the operations are not being conducted at a loss but, on the contrary, are actually earning a reasonable return upon that part of the investment properly chargeable to the service, it is clear that the application should be denied.

A complaint has been made that applicant has not at all times permitted sufficient water to flow into the pipe lines supplying his consumers, and applicant on the other hand has insisted that there has been a wasteful use of water. To eliminate this trouble in the future, applicant will be expected to take immediate steps to install meters at each of his consumers and to see to it that no obstructions are permitted to interfere with the free passage of water to his consumers all times. In view of the fact that no schedule of meter rates has yet been established for this system, it will be necessary that applicant, without delay, file formal application with this Commission requesting that such a schedule be authorized.

ORDER.

Robert Gallegos having made application to this Commission for authority to discontinue public utility water service, as entitled above, public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises;

It is hereby ordered, that the above entitled application be and the same is hereby denied.

The effective date of this order shall be twenty days from and after date hereof.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19165.

F. J. COULTER, AS AGENT FOR MONTICELLO UTILITY CORPORATION,
A CORPORATION OPERATING UNDER FICTITIOUS NAME OF MON-
TICELLO STAGE COMPANY,

vs.

V. V. ANDERSON, OWNER AND OPERATING UNDER FICTITIOUS NAME
OF WINTERS-MONTICELLO STAGE LINE.

Case No. 2399.

IN THE MATTER OF AN INVESTIGATION ON THE COMMISSION'S OWN
MOTION INTO THE PRACTICES AND OPERATIONS OF V. V.
ANDERSON OPERATING AN AUTOMOTIVE SERVICE FOR THE
TRANSPORTATION OF PERSONS AND PROPERTY BETWEEN MON-
TICELLO AND WINTERS AND MONTICELLO AND SACRAMENTO.

Case No. 2420.

Decided December 23, 1927.

AUTOMOTIVE TRANSPORTATION — OPERATIVE RIGHTS — REVOCATION. — Operative rights of V. V. Anderson for auto stage and truck line between Monticello and Winters and Monticello and Sacramento revoked because of unauthorized suspension of operation.

PLEADING AND PROCEDURE — HEARING — FAILURE TO APPEAR. — Where complainant makes no appearance at the hearing and no evidence is offered in support of his allegations, the complaint will be dismissed.

AUTOMOTIVE TRANSPORTATION — REVOCATION OF OPERATIVE RIGHTS. — Suspension of operation without the knowledge and approval of the Commission will be considered a relinquishment of any operative right heretofore granted.

Edward Stern, for American Railway Express Company.

E. F. Gardner, for Monticello Stage Company.

W. S. Johnson, for Southern Pacific Company.

W. L. Warner, for Winters Truck Line.

BY THE COMMISSION.

OPINION.

A complaint was filed by F. J. Coulter as agent for Monticello Utility Corporation alleging that V. V. Anderson, operating under the fictitious name of Winters-Monticello Auto Line between Monticello and Winters and between Monticello and Sacramento, had failed and neglected to maintain a regular and dependable passenger and freight service over such route.

Subsequently the Railroad Commission instituted an investigation on its own motion to determine whether or not the practices and operations of V. V. Anderson are unreasonable, discriminatory or preferential in any particular, or in any manner illegal or unlawful.

A public hearing was held before Examiner Cannon at Winters on November 10, 1927, at which time the matters were consolidated for the purpose of receiving evidence, and having been duly submitted, are now ready for decision.

The complainant made no appearance at the hearing and no evidence

was offered in support of his allegations. The complaint will, therefore, be dismissed.

Upon the hearing of the Commission's order instituting an investigation and order to show cause, it developed that defendant, V. V. Anderson, had made no pretense of rendering service of any kind or character for some time past.

E. F. Gardner, who owns and operates the Monticello Stage Company, serving Monticello and Winters and points intermediate, over the identical route presumed to be served by defendant, testified as to the irregularity of Anderson's operations and stated that such service had been very irregular for two years last past, and that for the past two months Anderson had rendered no service whatsoever over the route in question.

No other testimony was offered at the hearing, the defendant having failed to enter an appearance. In fact, on the day preceding the hearing, defendant Anderson telegraphed to the Railroad Commission requesting that his certificate be revoked.

Such evidence as is of record in this proceeding conclusively points to a complete abandonment of service by defendant over the route for which he had been granted operative rights. The records of this Commission contain abundant indication of unsatisfactory and unreliable operation on the part of this defendant. In Decision No. 18381, dated May 18, 1927, it was declared that:

The record shows without any material contradiction that V. V. Anderson has failed for more than one year last past to operate and maintain a regular and dependable service between Monticello and Winters. The evidence shows that there has been much dissatisfaction among the residents of Monticello with the unreliable operations of Anderson and many complaints have been made by passengers who have had occasion to travel between Winters and Monticello.

In the face of this warning defendant Anderson has apparently made no effort to improve his service but, on the contrary, has permitted it to decline and finally to disappear entirely. It has frequently been held by this Commission that suspension of operation without the knowledge and approval of the Commission will be considered a relinquishment of any operative rights heretofore granted.

After careful consideration of the evidence in this proceeding, we are of the opinion, and hereby find as a fact, that V. V. Anderson, owner and operator of an automobile stage and truck line, operating under the fictitious name of Winters-Monticello Auto Line between Monticello and Winters and between Monticello and Sacramento, has suspended operation of such service without the authority of this Commission so to do, such suspension constituting a relinquishment of operative rights heretofore granted.

ORDER.

A public hearing having been held in the above entitled proceedings, the matters having been duly submitted, and the Commission being fully advised, and basing its order on the findings of fact set forth in the foregoing opinion;

It is hereby ordered, that the operative rights of V. V. Anderson, operating an automobile stage and truck line between Monticello and Winters, and Monticello and Sacramento under the fictitious name of Winters-Monticello Auto Line, be and the same are hereby revoked and annulled; and

It is hereby further ordered, that tariffs and time schedules filed by V. V. Anderson with the Railroad Commission covering such operations be and the same are hereby canceled; and

It is hereby further ordered, that Case No. 2399 be and the same is hereby dismissed.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19166.

IN THE MATTER OF THE INVESTIGATION UPON THE COMMISSION'S OWN MOTION FOR THE REVISION AND MODIFICATION OF GENERAL ORDER No. 50 OF THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

Case No. 2401.

Decided December 23, 1927.

GENERAL ORDERS.—General Order No. 50A adopted relating to the construction of public utility dams.

DAMS.—Under the provisions of General Order No. 50A “* * * no public utility shall begin the construction, reconstruction, alteration or repair affecting the stability or safety of any dam without first having submitted to the Railroad Commission the plans and specifications therefor * * *”

J. W. Jourdon, for San Joaquin Light and Power Corporation.

LOUTTIT, Commissioner.

OPINION.

This is a proceeding initiated by the Commission for the purpose of revising and modifying its existing General Order No. 50, which provides for the submission to the Commission of plans for the construction of dams by public utilities.

A public hearing in this matter was held at San Francisco on November 10, 1927, after all public utilities affected by the proposed modification of said general order were duly notified and given an opportunity to appear and be heard.

The existing General Order No. 50 was approved and made effective on the eighth day of October, 1917, being in words and figures as follows:

It is hereby ordered, that no public utility shall begin the construction of any dam without first having submitted to the Railroad Commission the plans and specifications thereof in order that the Railroad Commission may inquire into the safety of the contemplated structure, and shall have received from the Railroad Commission its approval of such plans and specifications as to safety.

It is proposed to revise and modify this order to read as follows:

It is hereby ordered, that no public utility shall begin the construction, reconstruction, alteration or repair affecting the stability or safety of any dam without first having submitted to the Railroad Commission the plans and specifications thereof, in order that the Railroad Commission may inquire into the safety of the contemplated structure or existing structure as affected by the proposed reconstruction, alteration or repair, and shall have received from the Railroad Commission its approval of such plans as to stability or safety.

No protests to this modification were made either prior to or at the hearing, and it is recommended that the former General Order No. 50 be modified and revised as above set forth.

The following form of order is suggested.

ORDER.

The Commission having initiated this proceeding for the purpose of revising and modifying its General Order No. 50 heretofore approved and made effective on the eighth day of October, 1917, a public hearing having been held thereon, the matter having been duly submitted and the Commission being now fully advised in the matter;

It is hereby ordered, that the present General Order No. 50 of this Commission be and it is hereby modified and revised to read as follows:

GENERAL ORDER No. 50A.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA. IN THE MATTER OF SUBMITTING TO THE RAILROAD COMMISSION PLANS OR THE CONSTRUCTION OF PUBLIC UTILITY DAMS.

Approved December 23, 1927. Effective January 23, 1928.

It is hereby ordered, that no public utility shall begin the construction, reconstruction, alteration or repair affecting the stability or safety of any dam without first having submitted to the Railroad Commission the plans and specifications thereof, in order that the Railroad Commission may inquire into the safety of the contemplated structure or existing structure as affected by the proposed reconstruction, alteration or repair, and shall have received from the Railroad Commission its approval of such plans as to stability or safety.

The effective date of this order shall be thirty days from and after the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19167.

IN THE MATTER OF THE APPLICATION OF C. C. COCHRAN FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO OPERATE AN AUTO STAGE LINE FOR THE TRANSPORTATION OF PASSENGERS, BAGGAGE AND EXPRESS, FOR COMPENSATION, BETWEEN SACRAMENTO AND CHICO, CALIFORNIA, AND INTERMEDIATE POINTS, VIA VERONA, YUBA CITY, MARYSVILLE, LIVE OAK AND DURHAM, CALIFORNIA.

Application No. 12474.

Decided December 23, 1927.

CERTIFICATE—AUTOMOTIVE TRANSPORTATION.—C. C. Cochran authorized to operate an express service in conjunction with present passenger operative rights between Sacramento and Marysville and intermediate points via the Garden Highway, provided that no local service be rendered between Marysville and Yuba City; Sacramento and Yuba City or Sacramento and Marysville, and parcels shall not exceed one hundred pounds each, and are to be carried on applicant's passenger stages.

CERTIFICATES—GROUNDS FOR GRANTING OR REFUSING—IN GENERAL.—While proposed service of applicant to certain points on a highway would afford a convenience to residents so located, where the volume of traffic so originating would not produce sufficient revenue to justify the expense of operation unless the traffic to and from points already adequately served by rail lines was to be included, the application will be denied.

Sanborn and Roehl and DeLancey C. Smith, by A. B. Roehl, and Ray Manuwell, for Applicant.

Chas. R. Detrick, R. D. Williams and L. I. McKimm, for Sacramento Northern Railroad, Protestant.

Edward Stern, for American Railway Express Company, Protestant.

F. W. Meilke and V. E. Etzkorn, for Southern Pacific Company, Protestant.

Henry E. Holmes, for Garden Highway Truck Line.

BY THE COMMISSION.

OPINION.

C. C. Cochran has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by him of an automobile stage service as a common carrier of passengers, baggage and express, for compensation, between Sacramento and Chico and intermediate points, via the Garden highway between Sacramento and Yuba City, and via the state highway, with diversions therefrom, between Marysville and Chico. The service herein sought is supplemental to and an extension of applicant's present authorized service between Sacramento and Marysville and intermediate points, via the Garden highway, as operated pursuant to the provisions of this Commission's Decision No. 15013 on Application No. 10598, decided June 6, 1925. No authority is herein sought for the transportation of

passengers, baggage or express locally between Marysville and Yuba City.

Public hearings on this application were conducted by Examiner Handford at Marysville and Chico, the matter was duly submitted and is now ready for decision.

Applicant proposes to charge rates in accordance with a schedule marked "Exhibit A" as filed with and made a part of the application herein; to operate on a schedule of three round trips daily between Sacramento and Chico with two additional round trips daily between Marysville and Chico; using as equipment, in addition to that now operated on the authorized line of applicant, two new 18-passenger automobile stages and such other and additional equipment as may be required by the traffic demands. Applicant proposes to serve as intermediate points the communities of Arvalt, Picnic Grounds, Power Road, Elkhorn Ferry, Power House, Verona, Shields, Nicolaus, Wilson School, Tudor, Knights Landing Junction, Oswald, Bogue, Yuba City, Marysville, Live Oak, Gridley, Biggs, Y Station, Richvale, Nelson and Durham; no service being proposed locally between Marysville and Yuba City.

Applicant relies as justification for the granting of the desired certificate upon the following alleged facts: that there is no automobile stage service now operating between Sacramento and Chico over the proposed route except the existing line of applicant between Sacramento and Marysville; that the proposed route offers a short and attractive scenic route, through the center of the Sacramento Valley, between Sacramento and Chico and the intermediate points hereinabove mentioned; that since the establishment of applicant's present authorized service between Sacramento and Marysville, exclusive of through operation between said termini, there has been a continued demand on the part of the public for the establishment of an auto stage service for the transportation of passengers, baggage and express packages between Sacramento and Marysville-Yuba City and intermediate points, and between Marysville-Yuba City and Chico and intermediate points, and applicant requests authority to care for such public demand; and that applicant, by reason of his investigation of the traffic conditions along the proposed route, believes the public convenience and necessity requires the establishment of the proposed service.

C. C. Cochran, applicant herein, testified as to commencing his investigation regarding the proposed stage line in November, 1925; and continuing same until the date of hearing; that such investigation had shown an average of three to four inquiries daily for service from Marysville to Sacramento via the Garden highway, an equal number from Sacramento to Marysville, and from four to five daily inquiries

at Sacramento for transportation to points north of Marysville. Witness proposes to purchase a new car of large passenger capacity for use on the proposed run and to supplement it with further equipment to meet the demands of traffic. Witness possesses the necessary financial ability to provide equipment and has had many years' experience in the operation of stage service.

L. B. Faller, employed as express agent at the Motor Carriers' Terminal at Sacramento, testified regarding the inquiries received for transportation from Sacramento to Marysville via the Garden highway and to points north of Marysville. During a 58-day period an average of nine inquiries daily were received for points north of Marysville to and including Chico, and an average of six inquiries daily for Marysville. An average of two inquiries daily were received for transportation of express parcels to points on the Garden highway between Sacramento and Marysville.

Twenty-eight witnesses testified in favor of the application, thirteen as regards the need for passenger transportation and twenty favoring the granting of the express privilege sought. These witnesses resided in Sacramento, Yuba City, Marysville, Chico and other points along the route proposed to be served.

The granting of the application is endorsed by the Chamber of Commerce of Biggs, the Board of Trustees of the city of Biggs and by a petition signed by 567 residents of Biggs, Oroville, Durham, Richvale, Chico, Red Bluff, Gridley, Yuba City, Nelson, Nicolaus, Sacramento, Marysville, Verona, Tudor and Live Oak.

Sacramento Northern Railroad, Southern Pacific Company and American Railway Express Company protest the granting of the application, basing such protest on the contention that the territory sought to be served is now adequately provided with facilities for the transportation of passengers and express.

Exhibits presented by Sacramento Northern Railway show a decreasing net revenue from passenger train operation, the record for the past five years being as follows:

	1922	1923	Year 1924	1925	1926
Passenger train earnings -----	\$664,603	\$619,549	\$510,043	\$472,814	\$448,321
Operating expenses, including taxes -----	603,524	633,746	586,496	505,242	532,200
Net earnings -----	\$61,079	*\$14,197	*\$76,455	*\$92,428	*\$83,879

Note.—* indicates deficit.

This protestant's exhibits also show the results of checks of travel between Chico and Marysville made during two representative periods as follows:

57—52641

<i>Period</i>	<i>Number of trains</i>	<i>Seating capacity</i>	<i>Maximum seats occupied</i>	<i>Percent- age seats occupied to total seating capacity</i>
December 5 to December 11, 1926, inc.-----	84	6,841	1,604	23.44%
January 9 to January 15, 1926, inc.-----	84	6,636	1,682	25.34%

Protestant Southern Pacific Company filed exhibits showing service rendered between Sacramento, Marysville and Chico, also fares and time consumed between such terminals. Two checks of travel between Sacramento and Chico for representative periods show the following results:

<i>Period</i>	<i>Number of trains</i>	<i>Seating capacity</i>	<i>Maximum seats occupied</i>	<i>Per- centage seats occupied to total seats avail- able</i>
April 10, to April 16, 1926, inc.-----	42	6,307	1,474	25.37%
February 9, to February 11, 1926, inc.-----	16	2,401	903	37.61%

Protestant American Railway Express Company filed exhibits showing schedule of passenger trains on which express was carried, facilities available at points proposed to be served by applicant, and rates applicable to the transportation of express matter.

Protestants called 151 witnesses and by stipulation the testimony of 18 additional was received. These witnesses included residents and business men of Durham, Chico, Gridley, Durham Land Colony, Marysville, Live Oak and Yuba City. The testimony of these witnesses was substantially to the effect that they used, or had used, the facilities of the existing authorized carriers and had found same adequate for their needs; and that there was no need for additional service as proposed by applicant. It is of interest to note that of the 169 witnesses whose testimony was presented in behalf of the protestants, 141 owned automobiles which were used for travel in practically all instances as much as were the facilities of the rail carriers, and many witnesses used their automobiles exclusively and had no need for the service offered by either the applicant or the existing carriers.

The record shows passenger service available to the public between Chico and Marysville by 9 round trips daily, 3 by the Southern Pacific Company and 6 via the Sacramento Northern Railway, between Marysville and Sacramento by 16 round trips daily, 3 by Southern Pacific Company, 6 by Sacramento Northern Railway, 2 by Western Pacific Railroad, and 5 by California-Nevada Stages, Inc. Express service is available over the American Railway Express Co. by 8 round trips between Sacramento and Marysville and 5 round trips between Marysville and Chico. California-Nevada Stages also transport

express, limited to a weight of 100 pounds to the individual package, on the 5 round trips scheduled between Marysville and Sacramento.

After full consideration of the evidence and exhibits herein we are of the opinion and hereby find as a fact that the public convenience and necessity does not require the establishment of the proposed through passenger and express service between Sacramento and Marysville-Yuba City nor between Marysville and Chico and intermediate points as an extension of applicant's authorized service as now operated under the provisions of Decision No. 15013 on Application No. 10598 as decided June 6, 1925, the record herein showing ample facilities available for the public as regards passenger and express traffic to the several communities sought to be served. While the applicant proposes service to points on the highway and such service would afford a convenience to residents so located the volume of traffic so originating would not produce sufficient revenue to justify the expense of operation unless the traffic to and from the points already adequately served by the rail lines was to be included.

As to the handling of express matter we are of the opinion and hereby find as a fact that the service, limited to packages not exceeding 100 pounds in weight, is required by public convenience and necessity over the route between Sacramento and Marysville, exclusive of through operation between such termini and the order herein will so provide.

ORDER.

Public hearings having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the findings of fact as appearing in the opinion which precedes this order:

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the operation by C. C. Cochran of an automobile service as a common carrier of passengers between Sacramento, Marysville, Yuba City and Chico, and intermediate points between Marysville and Chico, nor the carriage of express packages over said route except in so far as the carriage of express is hereinafter authorized.

The Railroad Commission of the State of California hereby further declares that public convenience and necessity require the operation by C. C. Cochran of an express service in conjunction with and as a part of said C. C. Cochran's present passenger operative rights between Sacramento and Marysville and intermediate points, via the Garden highway, provided that no local service shall be rendered between Marysville and Yuba City, nor between Sacramento and Yuba City or Sacramento and Marysville, and provided, further, that the

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express parcels shall not exceed a weight of 100 pounds per unit and to be carried only on the passenger stages of applicant.

It is hereby ordered, that a certificate of public convenience and necessity be and the same hereby is granted to C. C. Cochran for the carriage of express parcels not exceeding a weight of 100 pounds per unit, only when carried on the passenger stages of applicant, not as a separate and separate operation but as a part of and in conjunction with the passenger and baggage rights of said applicant as heretofore granted by this Commission in its Decision No. 15013 on Application No. 10598, as decided June 6, 1925, over the route and with the restrictions as set forth in the foregoing declaration, subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

2. Applicant shall file, in duplicate, within a period of not to exceed thirty days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract agreement on a basis satisfactory to the Railroad Commission.

It is hereby further ordered, that as to all other matters except the carriage of express this application be and the same hereby is denied. The effective date of this order is hereby fixed as twenty days from the date hereof.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19168.

THE MATTER OF THE APPLICATION OF COAST TELEPHONE COMPANY FOR PERMISSION TO INSTALL TELEPHONE PLANT AND TO PUBLISH, FILE, AND PUT INTO EFFECT RATES FOR EXCHANGE TELEPHONE SERVICE AT MORRO BAY, SAN LUIS OBISPO COUNTY, CALIFORNIA.

Application No. 14013.

Decided December 23, 1927.

SERVICE—TELEPHONE—EXCHANGE.—Coast Telephone Company authorized to establish a telephone exchange at Morro Bay, San Luis Obispo County, and to discontinue Cayucos exchange service in that area. Exchange and primary rate areas established.

Ernest Irwin, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding, Coast Telephone Company makes application to establish a telephone exchange at Morro Bay, California, and to place in effect certain rates for exchange telephone service within the exchange and toll charges for service between Morro Bay exchange and other exchanges.

A public hearing was held in this application before Examiner Williams at Morro Bay, on November 7, 1927, at which time and place the matter was submitted.

Coast Telephone Company is the name and style under which J. F. Fort, owner and manager, is conducting a telephone business in the towns of Cambria, Cayucos, Morro Bay and their vicinities. Cambria and Cayucos are separate exchanges while at present Morro Bay is served from the Cayucos exchange.

Morro Bay is a separate and distinct community with little community interest with Cayucos. The Pacific Telephone and Telegraph Company, at present, has a toll station at Morro Bay with rates on file with this Commission for service between Morro Bay and Cayucos and other toll points. The rate for a three-minute station-to-station message between Morro Bay and Cayucos is ten cents.

At the present time, the only services available in the Morro Bay section are on a ten-party line basis and there are but few of these as most residents of the Morro Bay territory have no desire for telephone service from Cayucos.

Under the proposed plan of a separate exchange at Morro Bay, the station-to-station initial toll rate between San Luis Obispo and Morro Bay will be ten cents, whereas the present rate from subscribers' stations in Morro Bay is twenty cents.

Applicant submitted a schedule of rates for service within the proposed exchange area, together with estimated revenue and expense and a detailed estimate of the cost of facilities necessary to give local exchange service in the proposed exchange. These estimates were supported by verbal testimony and appear satisfactory.

No objection to the granting of the authority requested was offered at the hearing, but, on the other hand, testimony was given as to the desirability and necessity of a separate telephone exchange at Morro Bay.

The evidence in this proceeding shows that in order to give the residents of Morro Bay and vicinity a more adequate local telephone

CALIFORNIA RAILROAD COMMISSION DECISIONS.

and a reduced rate on toll service to San Luis Obispo, the author-
or the establishment of the new exchange should be granted and
the rates shown in Exhibit No. 1, attached hereto should be author-
and the order following will so provide.

ORDER.

ast Telephone Company, J. R. Fort owner, applicant in this pro-
ng, having requested the Railroad Commission for an order
rizing it to open a telephone exchange at Morro Bay with local
nge telephone rates, a public hearing having been held, the
r having been submitted and now being ready for decision:

e Railroad Commission of the State of California hereby finds
fact that the Coast Telephone Company, J. R. Fort owner, should
lish a telephone exchange at Morro Bay and furnish local exchange
hone service within the boundary of the exchange area as shown
map filed in Exhibit "A," attached to the application, with a
ary rate area as shown on a map filed in said Exhibit "A,"
hed to the application, and with rates as shown in Exhibit No. 1,
hed hereto and made a part hereof.

sing its order on the foregoing findings of fact and such other
gs as are contained in the opinion preceding this order;

is hereby ordered, that Coast Telephone Company, J. R. Fort
r, shall establish on or before March 1, 1928, a telephone exchange
n the community of Morro Bay and furnish local exchange tele-
e service within the exchange area shown in Exhibit "A," attached
e application and shall discontinue Cayucos exchange service in
rea thereafter.

is hereby further ordered, that Coast Telephone Company, J. R.
owner, shall charge and collect rates for telephone service, as
n in Exhibit No. 1, attached hereto and made a part hereof, in
xchange area and primary rate area of Morro Bay as shown on
in Exhibit "A" attached to the application in this proceeding,
a showing to this Commission that it has completed the construc-
necessary to render such service and upon issuance of a supple-
al order by the Commission.

r all other purposes, the effective date of this order shall be twenty
from and after the date hereof.

ted at San Francisco, California, this twenty-third day of Decem-
1927.

EXHIBIT No. 1.**RATES.****Exchange Service Schedule No. A-1.****Rates for Individual and Party Line Service.**

Applicable to flat rate service within the primary rate area, Morro Bay exchange.

	Rate per month	
	Wall set	Desk set
Business flat rate service:		
Each individual line station-----	\$3 25	\$3 50
Each two-party line station-----	2 75	3 00
Each extension station, with or without bell-----	75	1 00
Residence flat rate service:		
Each individual line station-----	\$2 50	\$2 75
Each four-party line station-----	2 00	2 25
Each extension station, with or without bell-----	75	1 00

The individual and party line services will be provided outside the primary rate area and within the exchange area at the above rates, plus mileage rates.

Extension stations at the above rates are installed on the premises on which the primary station is located. The above rates, plus mileage rates, are applicable to outside extension stations.

Exchange Service Schedule No. A-4.**Mileage Rates.**

Applicable to mileage rates outside the primary rate area but within the exchange area of the territory served.

Mileage charges, based on air line mileage, measured between the station and nearest point on the boundary of the primary rate area are effective in addition to the rates for service within the primary rate area.

	Rate per month	
	Outside primary rate area and within exchange area	
Each quarter mile or fraction:		
Each individual line station, not including extension station-----		\$0 50
Each private branch exchange trunk line, battery power and ringing circuit-----		50
Each two-party line station-----		35
Each four-party line station-----		25

Conditions.

(1) Mileage charges, based on route, mileage, which is the lineal length of the actual line required, are effective in connection with extension stations, private branch exchange stations terminated outside the premises in which the primary station or private branch exchange switchboard is located. The mileage charge applies in addition to the rate for service on the premises in which the primary station or private branch exchange switchboard is located.

(2) Outside subscribers' premises and within exchange area.

	Rate per month	
	Each quarter mile or fraction:	
(a) Each extension station-----		\$0 50
(b) Each private branch exchange station-----		50

Exchange Service Schedule No. A-5.**Rates for Suburban Service.**

Applicable to suburban service outside the primary rate area but within the Morro Bay exchange area.

	Rate per month	
	Wall set	Desk set
Flat rate service:		
Each suburban business station-----	\$3 00	\$3 25
Each suburban residence station-----	2 50	2 75

Suburban service will be rendered outside the primary rate area but within the exchange area. In no case will the total number of stations connected to one circuit exceed ten stations.

DECISION No. 19171.

HUTCHINSON COMPANY, INCORPORATED,

vs.

THE ATCHISON, TOPEKA AND SANTA FE RAILWAY COMPANY; BAY POINT AND CLAYTON RAILROAD COMPANY,

Case No. 2390.

Decided December 23, 1927.

SEPARATION.—The Atchison, Topeka and Santa Fe Railway Company and the Bay Point and Clayton Railroad Company directed to refund to Hutchinson Company, Incorporated, with interest at six per cent per annum, all charges collected in excess of eighty cents per ton for the transportation of carload shipments of crushed rock from Dwight to Matheson during July, 1925.

W. Hollingsworth, for Complainant.

Att Kent and Berne Levy, for Defendant The Atchison, Topeka and Santa Fe Railway Company.

B. Mitchell, for Defendant Bay Point and Clayton Railroad Company.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the State of California, with its principal place of business at Oakland, is engaged in the production and sale of crushed rock, sand and gravel. Its complaint filed July 15, 1927, as amended at the hearing it is alleged that the rate charged for the transportation of forty-four carloads of crushed rock moving during the month of July, 1925, from Dwight to Matheson was excessive, unjust and unreasonable to the extent it exceeded 60 cents per ton of 2000 pounds.

Reparation only is sought. Rates will be stated in cents per ton of 2000 pounds.

A public hearing was held before Examiner Geary at San Francisco October 3, 1927, and the case having been duly submitted is now ready for our opinion and order.

The shipments here involved moved via The Atchison, Topeka and Santa Fe Railway from Dwight to Bay Point, thence Bay Point and Clayton Railroad to Matheson, a distance of 38 miles. Defendants assessed and collected the lawfully applicable rate of \$1, made by a combination of commodity rates over the junction point, the factors being 50 cents from Dwight to Bay Point and 50 cents from Bay Point to destination.

The present rate of \$1 is approximately 122 per cent higher than the rate prior to the commencement of federal control of railroads, June 25, 1918. The rate then in effect was 45 cents, made by a combination of separately established commodity rates over Bay Point, the factor being from Dwight to Bay Point 25 cents and from Bay Point to Matheson 20 cents. On June 25, 1918, under authority of General Order No. 28 of the Director General of Railroads both factors were increased 20 cents, subject, however, to the so-called combination rule issued by the Director General of Railroads and later published as Agent B. T. Jones' Combination Tariff 228, C. R. C. No. 1, which combination tariff provided a temporary method of constructing through rates for separately established commodity factors but not to

exceed the flat amount under the provisions of General Order No. 28. Thus the through rate on June 25, 1918, became 65 cents. Effective August 26, 1920, a further increase of 25 per cent (18 C. R. C. 646) made the through rate 90 cents. Effective July 1, 1922 (Reduced Rates 1922, 68 I. C. C. 676), the factor from Dwight to Bay Point was reduced to 50 cents, making a through rate of 80 cents. The combination tariff was not a satisfactory method for computing rates, and on September 1, 1923, the rail lines in this territory, by appropriate authority, canceled the provisions of the combination tariff, subject to the stipulation that specific through rates not in excess of those provided by the combination tariff would be established between points where there was a movement of any consequence. At the time the combination tariff was canceled there was no movement from Dwight to Matheson, hence on and after September 1, 1923, a rate of \$1, the full combination of locals, was applicable.

Complainant contends that not only has the Dwight to Matheson rate been increased in a greater proportion than other rates on crushed rock, but it is also higher than the joint line mileage scale of rates maintained by carriers in this territory. The scale, published in Pacific Freight Tariff Bureau Tariff 166-B, C. R. C. 335, applies jointly between points on The Atchison, Topeka and Santa Fe Railway, Southern Pacific Company, Western Pacific Railroad, Central California Traction Company, Sacramento Northern Railroad, Tidewater Southern and Visalia Electric Railroad in the territory north of Bakersfield, Caliente and Santa Barbara, and provides a rate of 60 cents for a two-line haul of 40 miles or less. The Bay Point and Clayton is not a party to the joint mileage tariff, but complainant points to the fact that defendants established on sand, effective February 6, 1926, rates of 60 cents from Cowell to Richmond, 34 miles, and 70 cents from Cowell to Oakland, 45 miles. Defendants testified that the latter two rates were established to meet the competition of sand moving by barges from plants located on Sacramento River and its tributaries and to utilize empty equipment returning from Cowell after having moved into that point with gypsum, but the reduced rates to the San Francisco Bay points failed to secure a single ton of crushed rock, sand or gravel.

Defendants also contend that the general level of rates in northern California is depressed by water competition in and around San Francisco Bay points and its tributaries. They point to Case No. 2087, *Union Rock Company vs. Atchison, Topeka and Santa Fe Railway et al.*, 27 C. R. C. 285, wherein Commissioner Squires said:

Defendants, on the other hand, maintain that the northern California scale was and is predicated upon water competition and that this water competition was brought about by the operation of boats and barges on San Francisco, San Pablo and Suisun bays and on the Sacramento, Yuba and San Joaquin

rivers and other streams as far north as Red Bluff in the Sacramento Valley and as far south as Herndon in the San Joaquin Valley. This competition, it is alleged, was active as far back as 1897, and although it is not now so keen as then, the influence of the water-borne tonnage still governs the northern California rate adjustments on crushed rock, sand and gravel to a very large extent.

The record shows that at the time the rail carriers first felt the effects of this water competition they endeavored only to establish low rates at points where the competition was active and where it was necessary to go below the normal rates in order to secure to the rail carriers a portion of the water-borne traffic. But as additional plants were opened up at inland points the carriers were forced to establish rates whereby producers at those points could reach the consuming markets in competition with shippers enjoying the water-influenced rates. Following the San Francisco fire and earthquake of 1906 an abnormal demand was created for building materials. This condition resulted in the development of many sand and gravel deposits, and in order to permit shippers at the new points to compete for San Francisco business rates were established comparable with the water-compelled rates. Thus the low basis of rates originally intended to apply only between points where there was actual water competition gradually extended to the inland points not served by water until the rates were practically uniform in northern California. Defendants contend that the entire northern California scale reflects either water or market competition and is manifestly less than reasonable, per se.

A witness for the Bay Point and Clayton Railroad testified that the operating conditions in handling the traffic over his line were unusually difficult because of a ruling grade of 2 per cent encountered in the haul from Bay Point to Matheson. There was also testimony to the effect that the siding facilities at Matheson were not adequate to handle more than three carloads, making it necessary to haul a portion of complainant's consignment to Cowell, and when the siding was clear to return them to Matheson.

The Bay Point and Clayton Railroad was primarily constructed to serve the cement plant of the Henry Cowell Lime and Cement Company at Cowell, and the latter company controls through stock ownership the Bay Point and Clayton Railroad. Practically 90 per cent of the traffic handled by this defendant consists of the movement of cement from Cowell to points beyond Bay Point.

The average weight of complainant's shipments was 101,700 pounds per car, yielding a ton-mile revenue of 2.63 cents, a car-mile revenue of \$1.34, and a per car revenue of \$50.85. Under the 60-cent rate sought in the instant proceeding the revenue per ton-mile would be 1.58 cents, per car-mile 80.2 cents, and per car \$30.51; and under the rate of 80 cents in effect prior to the cancellation of the provisions of the combination tariff, heretofore referred to, the revenue per ton-mile would be 2.1 cents, per car-mile \$1.07, and per car \$40.68.

After careful consideration of the record we are of the opinion and find that the assailed rate was unjust and unreasonable to the extent it exceeded 80 cents; that complainant paid and bore the charges on the shipments in question and has been damaged in the amount of the difference between the charges paid and those that would have accrued

at the rate herein found reasonable, and is entitled to reparation with interest at 6 per cent per annum on all shipments here involved on which the cause of action accrued within the statutory period.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made part hereof;

It is hereby ordered, that defendants, The Atchison, Topeka and Santa Fe Railway Company and the Bay Point and Clayton Railroad Company, according as they participated in the transportation, be and they are hereby authorized and directed to refund to complainant Hutchinson Co., Inc., with interest at 6 per cent per annum, all charges they may have collected in excess of 80 cents per ton of 2000 pounds for the transportation of carload shipments of crushed rock involved in this proceeding, moved from Dwight to Matheson during the month of July, 1925, on which the cause of action accrued within two years prior to July 15, 1927.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19172.

IN THE MATTER OF THE APPLICATION OF ORIGINAL STAGE LINE, INC., TO ENTER INTO AN AGREEMENT FOR THE PURCHASE OF LAND, ETC.

Application No. 13771.

Decided December 23, 1927.

SECURITIES—IN GENERAL.—Original Stage Line authorized to assume obligation due on property taken over from W. C. Dunlap and Vivian Dunlap, said property having been purchased for use by the Stage Company as a terminal.

Richard T. Eddy, for Applicant.

BY THE COMMISSION.

OPINION.

In this application, the Original Stage Line, Inc., asks permission to assume all of the obligations which W. C. Dunlap and Vivian T. Dunlap, his wife, have agreed to assume, in the agreement attached to this petition and dated July 7, 1926.

W. C. Dunlap, according to the record, owns all of the outstanding stock of Original Stage Line, except two shares. The agreement filed in this proceeding recites that W. C. Dunlap and Vivian T. Dunlap, his wife, have agreed to purchase from John C. Casey and T. Milton

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an the following described real estate situate in the city of San Fernando, county of Los Angeles:

Lots eleven (11), twelve (12), twenty-nine (29), thirty (30), thirty-one (31), and thirty-two (32) in Block two (2) of Porter Land and Water Company's resurvey of the town of San Fernando, as recorded in book 34, pages 5 and 66, miscellaneous records of Los Angeles County, California.

sellers agreed to erect and have erected upon the property a building in accordance with plans and specifications drawn by the buyers and to sell the real property, together with the building, to the purchasers for the sum of \$40,800 payable as follows:

\$100 hundred dollars upon the execution of the agreement, \$400 monthly thereafter during the calendar year 1927, \$5,000 during the year 1928 and \$5,000 annually thereafter until the principal is reduced to \$10,000, at which time the sellers agree to give to the purchasers a deed to the property, provided the buyers assume the payment of the taxes and agree to pay the same over a period of not more than five years thereafter.

The testimony shows that W. C. Dunlap purchased the property for the benefit of the Original Stage Line, Inc. Since the completion of the building the stage line has been in possession of the property and uses it for its San Fernando terminal. It is of record that the terms of the agreement have been met to date and that there is now under the agreement \$35,500.

The Commission believe that it is to the interest of the Original Stage Line, Inc., to have its own terminal and therefore believe that the company should be permitted to assume the obligations in the agreement filed in this petition and be substituted for W. C. Dunlap and Vivian T. Dunlap, his wife, and that the company should reimburse W. C. Dunlap and Vivian T. Dunlap, his wife, for any expenditures which they may have made to acquire the properties.

ORDER.

The Original Stage Line, Inc., having asked permission to assume the obligations referred to in the agreement filed in this proceeding and to reimburse W. C. Dunlap and Vivian T. Dunlap, his wife, for payments heretofore made under such agreement, a public hearing having been held before Examiner Fankhauser, and the Commission being of the opinion that the money, property or labor to be procured or paid for by the assumption of the obligations referred to in said agreement is reasonably required by applicant and that the expenditures authorized are not in whole or in part reasonably chargeable against operating expenses or to income and that this application should be granted as herein provided; therefore,
It is hereby ordered, that Original Stage Line, Inc., be and it hereby is authorized to assume the obligations referred to in the agreement

filed in this proceeding, and to reimburse W. C. Dunlap and Vivian T. Dunlap for the payments which they have made under said agreement.

It is hereby further ordered, that the authority herein granted will become effective when applicant has paid the fee prescribed by section 57 of the Public Utilities Act, which fee is \$36 and that Original Stag Line, Inc., shall file with the Railroad Commission a certified copy of the agreement under which it will acquire and hold title to the properties referred to in this application.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19174.

IN THE MATTER OF THE APPLICATION OF OAK PARK WATER COMPANY FOR PERMISSION TO SERVE WATER TO ADDITIONAL TERRITORY.

Application No. 13905.

Decided December 23, 1927.

SERVICE—WATER UTILITY—EXTENSION OF SERVICE.—Guy B. Humphrey operating under the name and style of Oak Park Water Company authorized to extend service to territory adjacent to the city limits of Pasadena and to enter into an agreement of lease with Pacific-Southwest Trust and Savings Bank, Pasadena Branch.

Hahn and Hahn, by *Joseph G. Pyle*, for Applicant.
Leonard A. Diether, for City of Pasadena.

BY THE COMMISSION.

OPINION.

In this proceeding, Oak Park Water Company, an unincorporated public utility owned and operated by Guy B. Humphrey and supplying water for domestic purposes in a certain 40-acre tract adjacent to the city limits of Pasadena, in Los Angeles County, makes application for authority to extend its service to a certain adjoining subdivided tract designated in the application as "Parcel No. 1," and to execute and carry out the terms and provisions of a certain agreement with the Pacific-Southwest Trust and Savings Bank, Pasadena Branch, a trustee under Trust No. 1149, wherein applicant proposes to lease from said trustee for a period of twenty years the water system, including a well source of supply, pumping equipment and distribution pipelines which said trustee proposes to install in said Parcel No. 1.

A public hearing in this matter was held at Los Angeles before Examiner Vaughan after all interested parties had been duly notified and given an opportunity to appear and be heard.

From the testimony, it appears that this Commission in its Decision No. 16886, dated June 11, 1926, granted to Fred A. Braley and E. T. Gruwell a certificate of public convenience and necessity to operate

water system under the fictitious firm name and style of Oak Park Water Company in Tract No. 7747 and certain territory adjacent hereto, near the city of Pasadena in Los Angeles County. Thereafter, one Guy B. Humphrey, applicant herein, acquired the Oak Park Water Company by purchase authorized by the Commission's Decision No. 18560, dated June 28, 1926. Said Humphrey has entered into an agreement with Pacific-Southwest Trust and Savings Bank, as trustee under Trust No. 1149, wherein said trustee, at its own expense, agrees to install a complete water system in a certain tract of land comprising some seventy acres, more or less, and designated as Parcel No. 1, situate adjacent to the territory now served by said Humphrey, and hereafter lease said water system for a period of twenty years for nominal consideration of \$1 per year to said Humphrey who, in turn, to obtain the necessary authority to serve the new area and is thereafter to operate and maintain the system and furnish the consumers of Parcel No. 1 with an adequate and proper water supply. The contracts for the installation of the water system specify a plant of proper design and adequate capacity to serve the reasonably probable domestic water requirements of the entire parcel to ultimate and complete development; the pipe lines are to be of cast iron pipe of 4-inch, 6-inch and 8-inch diameter; the total estimated cost of the system closely approximates \$30,000.

No one at the hearing opposed the granting of this application and appears from the evidence that applicant will be enabled to furnish proper and adequate domestic water service in the additional territory designated above as Parcel No. 1 and it appearing further that the public interests will best be served by authorization of the agreement of lease as set out in the application, the Commission is therefore of the opinion that the requests should be granted.

ORDER.

Guy B. Humphrey, operating a water system under the fictitious firm name and style of Oak Park Water Company, having applied to this Commission for authority to extend his public utility water service to certain additional and adjacent territory, designated as Parcel No. 1, and having also asked for authority to enter into a lease with the Pacific-Southwest Trust and Savings Bank, a corporation, as trustee providing for the installation and operation of the necessary water plant to serve said Parcel No. 1, a public hearing having been held thereon and the Commission being now fully informed in the premises: The Railroad Commission of the State of California hereby declares that public convenience and necessity require and will require that Guy B. Humphrey, under the fictitious firm name and style of Oak

Park Water Company, operate a water system for the purpose of supplying water for domestic and other purposes in Parcel No. 1, also known as Tracts No. 9562 and No. 9623, and/or parts thereof, in Los Angeles County, and as more particularly described in the application herein and the exhibits attached thereto.

It is hereby ordered, that said Guy B. Humphrey be and he is hereby authorized to enter into an agreement with the Pacific-Southwest Trust and Savings Bank, a corporation, as trustee, providing for the lease by said trustee to said Guy B. Humphrey of a certain water system to be installed in said Parcel No. 1 substantially in accordance with the terms, conditions and provisions of the "Memorandum of Agreement" attached to the application herein and marked Exhibit "C," which is hereby referred to and made a part of the order herein by reference.

It is hereby further ordered, that the authority herein granted for the entering into of said agreement to lease shall apply only to such agreement as shall have been made on or before the first day of March, 1928, and a certified copy of said agreement shall be filed with this Commission by said Guy B. Humphrey within ten days after said agreement has been executed.

The authority herein granted shall become effective upon the date hereof.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19175.

IN THE MATTER OF THE APPLICATION OF ANDREW SORENSEN FOR
AN INCREASE IN WATER RATES.

Application No. 14018.

Decided December 23, 1927.

RATES—WATER UTILITY—INCREASE.—A Sorensen serving water in the vicinity of Twentieth street and Twenty-fifth avenue, Oakland, authorized to increase rates.

P. J. Noerager, for Applicant.

BY THE COMMISSION.

OPINION.

In this proceeding, Andrew Sorensen, who owns and operates a public utility water system supplying water to a residential district in the vicinity of East Twentieth street and Twenty-fifth avenue, Oakland, Alameda County, applies for authority to increase the rates. The application alleges in effect that the present rates do not produce sufficient revenue to yield maintenance and operation expenses, depreciation allowance or a proper return on the investment. The Commis-

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is asked to increase the existing minimum monthly flat and meter
ge of \$1 to \$1.50.

public hearing in this matter was held before Examiner Satter-
te at Oakland, after all interested parties had been duly notified
given an opportunity to appear and be heard.

he rates in effect were filed with the Commission on June 3, 1918,
are as follows:

FLAT RATES.

Minimum \$1.00 per month—2 persons.

For each additional person per month add 12½ cents each.

Horse or cow—12½ cents each.

Lawns—per square yard up to 25 square yards per month, 1 cent per square
yard.

Over 25 square yards, ½ cent per square yard per month.

Flower and vegetable gardens—½ cent per square yard per month.

12½ cents for each automobile per month.

METER RATES.

Minimum monthly charge----- \$1 00

All water used, per 100 cubic feet per month----- 20

J. Noerager appeared for applicant and testified in regard to the
ory of the water system and its operations. He stated that in
5 Andrew Sorensen installed a pumping plant to serve his own
dence and, as a matter of accommodation, he also supplied a few
hghors. As demands increased, he gradually extended the water
em and also entered the field of distributing electricity to his
hghors. The electric distribution system was recently sold to the
at Western Power Company, but the water system was retained
now serves an average of ninety consumers, only four of which
metered. The water is lifted from a well by a deep-well turbine
p operated by an electric motor and delivered into two elevated
wood tanks. This supply is supplemented by another well equipped
a plunger type of pump. The pressure afforded by the raised
as is augmented by smaller booster pumps and a 2000-gallon steel
sure tank. The distribution system consists of approximately 6380
of pipe varying from 2-inch to 3-inch in diameter.

applicant's water system lies wholly within the service area of the
t Bay Water Company. In fact, the East Bay Water Company's
ns parallel all of applicant's mains and, in many instances, the
pany serves consumers residing alongside those served by applicant.

quality of water delivered by applicant is claimed to be superior
hat delivered by East Bay Water Company and in connection with
flat rates in effect has made the service more desirable. It was
her testified that a rate to produce a full return on the investment
not expected.

E. Savage, one of the Commission's engineers, submitted a report
which the original cost of all the public utility property was esti-

mated to be \$9,653 with a depreciation annuity of \$186, computed by the 5 per cent sinking fund method. The operating revenues for 1925 were found to be \$1,684 and for 1926 were \$1,670, and the maintenance and operation expenses for the same period, as shown by the annual reports filed with the Commission, were \$1,545 and \$1,304, respectively. Owing to the incomplete records, it was difficult to analyze and properly segregate the various items of operative expenses. However, the Commission's engineer testified that certain economies and advantages obtaining during dual operation of the water and electric systems are no longer possible since the sale of the latter. There will be an increase in the cost of power formerly purchased at wholesale rates, as well as slightly increased costs of supervision and repairs.

On the basis of the above showing, the annual revenues are less than the total operating expenses, including depreciation. It is therefore apparent that some adjustment in rates is necessary to provide at least a partial return on the investment, applicant having stated that he does not desire a full return at this time.

The rates set out in the following order are estimated to yield operating expenses, depreciation and a partial return on the property dedicated to public use, and at the same time make it possible for the consumers to retain the benefit of the high quality of water at a rate less than that charged by competing service for the average domestic use.

ORDER.

Andrew Sorensen having applied to the Railroad Commission for an order authorizing an increase in the rates charged for water supplied to his consumers in the vicinity of East Twentieth street and Twenty-fifth avenue, Oakland, a public hearing having been held thereon, the matter having been submitted and the Commission being now fully advised in the premises:

It is hereby found as a fact that the present rate schedule of Andrew Sorensen, in so far as it differs from the schedule of rates herein established, is unfair and unreasonable and that the rates herein established are just and reasonable rates to be charged for the service rendered.

Basing this order upon the foregoing finding of facts and upon the further statement of facts contained in the opinion which precedes this order;

It is hereby ordered, that Andrew Sorensen be and he is hereby directed to file with this Commission, within twenty days from the date of this order, the following schedule of rates to be charged for all water delivered to consumers subsequent to December 31, 1927:

58—52641

MONTHLY MINIMUM METER CHARGES.

For $\frac{3}{8}$ -inch meter	\$1 50
For $\frac{1}{2}$ -inch meter	1 75
For 1-inch meter	2 50
For $1\frac{1}{2}$ -inch meter	4 00

The foregoing "Monthly Minimum Meter Charges" will entitle the consumer to the quantity of water which that minimum will purchase at the "Monthly Quantity Rates" set out below.

MONTHLY QUANTITY RATES.

From 0 to 600 cubic feet	\$1 50
From 600 to 2500 cubic feet, per 100 cubic feet	25
Over 2500 cubic feet, per 100 cubic feet	20

MONTHLY FLAT RATES.

For each residence, flat or apartment	\$1 50
For lawn and garden irrigation, per 100 square feet of surface actually irrigated	05

It is hereby further ordered, that Andrew Sorensen be and he is hereby directed to file with the Railroad Commission, within thirty days from the date of this order, rules and regulations governing his relations with consumers, said rules and regulations to become effective upon their acceptance for filing by this Commission.

For all other purposes, the effective date of this order shall be twenty days from and after the date hereof.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19177.

IN THE MATTER OF THE APPLICATION OF OLSEN'S AUTO SERVICE, M. M. OLSEN, SOLE OWNER, TO SELL, AND OF THE MOUNT LASSEN TRANSIT COMPANY, A CORPORATION, TO BUY THE EQUIPMENT AND TO SECURE A TRANSFER OF OPERATIVE RIGHTS OF CERTAIN STAGE LINES NOW BEING OPERATED BY THE SELLER IN THE STATE OF CALIFORNIA, AND TO CONSOLIDATE SAME WITH EXISTING LINES OF MOUNT LASSEN TRANSIT COMPANY.

Application No. 14077.

Decided December 23, 1927.

TRANSFER—OPERATIVE RIGHTS.—M. M. Olsen authorized to sell to Mount Lassen Transit Company and the latter authorized to operate as part of its consolidated system, automotive operative rights for the carriage of passengers and freight between Portola and Walker Mine and intermediate points; passengers and baggage between Portola and the Nevada state line serving Beckwith; passengers, baggage and express between Portola and Quincy and specified intermediate points.

L. H. Hughes, by *H. B. Wolfe*, for Applicant, M. M. Olsen.

Harry A. Encell, for Applicant, Mount Lassen Transit Company.

BY THE COMMISSION.

OPINION.

M. M. Olsen, sole owner of Olsen's Auto Service, operating auto stage lines in Plumas and Lassen counties, and Mount Lassen Transit Company, a corporation, have petitioned the Railroad Commission for an

order authorizing the sale and transfer of the operative rights to Mount Lassen Transit Company and for the consolidation of said rights with the present system of said Mount Lassen Transit Company.

A public hearing on this application was conducted by Examiner Handford at Quincy, the matter was duly submitted and is now ready for decision.

The operative rights herein proposed to be transferred are those heretofore granted to applicant M. M. Olsen under the authority of this Commission as contained in the following decisions:

Decision No. 7240 on Application No. 3716, decided March 11, 1920, covering operation as a common carrier of passengers and freight between Portola and Walker Mine and intermediate points over and along a route from Portola to a station on the Boca and Loyaltown Railroad, thence through Burnham Ranch and Grizzly Valley to Midway Barn, thence to Lovejoy Ranch, thence to Walker Mine, a distance of twenty-two miles.

Decision No. 11686 on Application No. 8603, decided February 20, 1923, transferring operating right to Manford M. Olsen, same formerly held by the partnership of Manford M. Olsen and Frank Word, doing business under the firm name of Olsen & Word, under the authority of Decision No. 9761 on Application No. 7342, as decided November 17, 1921, which decision authorized the transfer to Olsen & Word of the operative rights formerly held by F. J. Roberti as granted by Decision No. 9377 on Application No. 6658, decided August 18, 1921, and covering operative rights for the transportation of passengers and baggage between Portola, California, and the Nevada state line to Reno, serving Beckwith as an intermediate point.

Decision No. 17242 on Application No. 13010, decided August 18, 1926, authorizing the operation of an automotive stage service for the transportation of passengers, baggage (not exceeding 100 pounds per passenger), and express (not exceeding 40 pounds per package in weight) between Portola and Quincy and the intermediate points of Feather River Mill, Clio, Graeagle, Blairsden, Camp Layman, Plumas Lumber Company, Cromberg, Sloat, Spring Garden and Massack.

The proposed transfer covers four automobiles and the operative rights heretofore stated and is to be made for a consideration of \$10,000.

M. M. Olsen, applicant herein, testified regarding inquires heretofore made for through service from points on his lines to points served by the Mount Lassen Transit Company, such demands having been cared for by transfer of passengers and baggage at connecting points.

W. C. Lawrence, superintendent of transportation for applicant Mount Lassen Transit Company, testified regarding the through travel interchanged by his company with the Olsen lines and the convenience that would be afforded the public by the operation of such lines as a

portion of the Mount Lassen Transit Company's stage system, also as to the operating economy possible by the coordination of service with the present Mount Lassen system.

The record shows that it is the intention, in the event of the granting of the application, to establish through rates on the basis of combination of present existing local rates and to continue service on approximately the same time schedules now in effect on the Olsen lines.

No appearance was made protesting the granting of the application.

Upon the record herein we are of the opinion that the application should be granted.

Mount Lassen Transit Company, a corporation, is hereby placed on notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not in any respect limited to the number of rights which may be given. The Commission in the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

ORDER.

A public hearing having been held on the above entitled application, the matter having been duly submitted, the Commission being now fully advised and of the opinion that public convenience and necessity require the transfer of the operative rights as herein sought and the consolidation of such rights with those now operated by applicant, Mount Lassen Transit Company;

It is hereby ordered, that authority be and the same hereby is granted to M. M. Olsen to sell and transfer to Mount Lassen Transit Company, a corporation, and for said Mount Lassen Transit Company to acquire and hereafter operate as a part of their consolidated system the following operative rights:

1. An operative right for the carriage of passengers and freight, as a common carrier by automobile, between Portola and Walker Mine and intermediate points over and along a route from Portola to a station on the Boca and Loyaltan Railroad; thence through Burnham Ranch and Grizzly Valley to Midway Barn; thence to Lovejoy Ranch; thence to Walker Mine, a distance of twenty-two miles.

2. An operative right for the transportation of passengers and baggage, as a common carrier by automobile, between Portola, California, and the Nevada state line to Reno, serving Beckwith as an intermediate point.

3. An operative right for the transportation by automobile, as a

common carrier, of passengers, baggage (not exceeding 100 pounds per passenger), and express (not exceeding 40 pounds per package in weight) between Portola and Quincy and the intermediate points of Feather River Mill, Clio, Graeagle, Blairsden, Camp Layman, Plumas Lumber Company, Cromberg, Sloat, Spring Garden and Massack, subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2. Applicant M. M. Olsen shall immediately unite with applicant Mount Lassen Transit Company in common supplement to the tariffs on file with the Commission, applicant M. M. Olsen on the one hand withdrawing and applicant Mount Lassen Transit Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant M. M. Olsen shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Mount Lassen Transit Company shall immediately file, in duplicate, in its own name, time schedules covering service heretofore given by applicant M. M. Olsen, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant M. M. Olsen, or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicant Mount Lassen Transit Company unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19178.

IN THE MATTER OF THE APPLICATION OF THE GRAY LINE, INC.,
TO OPERATE A SIGHT-SEEING SERVICE FROM OAKLAND VIA
BERKELEY AND PIEDMONT AND RETURN TO OAKLAND.

Application No. 14039.

Decided December 23, 1927.

CERTIFICATES—SIGHT-SEEING SERVICE.—The Gray Line, Inc., authorized to operate auto sight-seeing service from Crabtree's Travel Office, Oakland, to the University of California, Claremont Heights, Sky Line boulevard, Lake Merritt and return over a specified route.

Richard T. Eddy, for Applicant.

BY THE COMMISSION.

OPINION.

This is an application by The Gray Line, Inc., for a certificate of public convenience and necessity to operate an automobile sight-seeing service from Oakland, through Berkeley and Piedmont, and return to Oakland.

A public hearing was held before Examiner Gannon at Oakland, at which time the matter was duly submitted and is now ready for decision.

The detail for the proposed route is set forth in the application: Starting at Crabtree's Travel Office, in Oakland, the busses would run on San Pablo avenue to Berkeley, to the University of California, where stops are made at the Greek Theatre and the Stadium. The route thence is via the Claremont Hotel to Sky Line boulevard, where another stop is made. From this point the stages return to the starting point in Oakland by way of Piedmont, Lake Merritt and the business section of Oakland.

The distance over the proposed route is approximately 72 miles and the fare \$2.50 for adults and half rates for children under 12 years of age. Two trips are proposed daily starting at 9.45 a.m. and 1.45 p.m. Applicant reserves the right to cancel any tour unless a minimum of four tickets has been sold. The available equipment is described as two Fageol parlor car type sight-seeing busses.

Applicant is now engaged in operating several sight-seeing tours in the surrounding territory, all of them under the jurisdiction of this Commission. The service as outlined above was inaugurated on July 4, 1927. The state legislature at its last session amended the Public Utilities Act by bringing sight-seeing busses and the regulation thereof within the jurisdiction of the Railroad Commission, and requiring the operators of such service to apply for and secure certificates of public convenience and necessity. The act exempted such automotive carriers as were operating sight-seeing busses on January 1, 1927, or as had operated a seasonal service of not less than three months during the year 1926, and these were directed to file their tariffs and schedules with the Commission prior to August 1, 1927.

It is alleged in the application that heretofore the operation as above described was initiated at San Francisco and conducted over the identical route on the Oakland side, but that there grew up an urgent demand for the same tour starting from and terminating at Oakland.

In support of the application there appeared representatives from three hotels in Oakland, who testified that they had had many inquiries for a service similar to the one herein proposed.

The secretary of the applicant company likewise testified to the popularity of this tour, as evidenced by repeated requests for the

service from tourists and others, particularly during the summer months. He introduced in evidence an exhibit showing a total of over 10,000 passengers carried on the San Francisco to Oakland and Berkeley tour from January 1st of this year to the time such service was discontinued. Testimony offered by the manager of Crabtree's Travel Office, in Oakland, was similar in effect to that of other witnesses. He stated that the requests for this service were constant and appreciable in number.

The traffic manager of the Oakland Chamber of Commerce was authorized to present himself as a witness at the hearing and he also testified as to the desirability of the service herein proposed.

There was no opposition to the granting of the application.

We have given careful consideration to the evidence in this proceeding and are of the opinion that public necessity and convenience require the operation of the service proposed. An order will be entered accordingly.

ORDER.

A public hearing having been held in the above entitled application, the matter having been duly submitted and being now ready for decision:

The Railroad Commission of the State of California hereby declares that public convenience and necessity require the operation by The Gray Line, Inc., of an automobile sight-seeing trip from Oakland, through Berkeley and Piedmont and return to Oakland, over and along the following route:

From Crabtree's Travel Office, at 412 Thirteenth street, Oakland, along San Pablo avenue to Berkeley to the University of California; thence through South Berkeley to the Claremont Hotel and Claremont Heights and over the Sky Line boulevard to Observation Point; thence through Piedmont and via Mandana boulevard to Lake Merritt, around the lake and through Lakeside Park; thence through the business section of Oakland and return to Crabtree's Travel Office.

It is hereby ordered, that a certificate of public convenience and necessity for the foregoing service be and the same is hereby granted for the foregoing service, subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten days from date hereof.

2. Applicant shall file, in duplicate, within a period of not to exceed twenty days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19179.

IN THE MATTER OF THE APPLICATION OF THE BOARD OF SUPERVISORS OF KERN COUNTY FOR AN ORDER AUTHORIZING THE CONSTRUCTION OF A CROSSING BY THE COUNTY OF KERN OVER THE TRACKS OF THE SOUTHERN PACIFIC COMPANY AT THE POINT OF INTERSECTION OF THE NORTHERLY EXTENSION OF H STREET AND THE RIGHT OF WAY OF THE SOUTHERN PACIFIC COMPANY.

Application No. 14045.

Decided December 23, 1927.

CROSSINGS—GRADE CROSSINGS.—Application of board of supervisors of Kern County to construct H street at grade across the tracks of the Southern Pacific Company, north of north boundary line of Bakersfield, denied.

CROSSINGS—GRADE CROSSINGS—CIRCUMSTANCES DETERMINING NECESSITY.—When a proposed crossing is two blocks from an existing crossing; an alternate route is available to detour traffic during the few days of the year a county fair is in session; the crossing would be comparatively hazardous, expensive to construct, and serve a useful purpose for only a few days during each year, authorization to construct will be denied.

W. H. McGinn, Deputy District Attorney, for Applicant.

H. W. Hobbs, for Southern Pacific Company.

BY THE COMMISSION.

OPINION.

The board of supervisors of Kern County has petitioned the Railroad Commission for an order authorizing the construction of H street at grade across the tracks of Southern Pacific Company. The proposed crossing is located near the intersection of Thirty-fourth street, extended west, and lies immediately north of the north boundary line of Bakersfield, Kern County, California.

A public hearing on this application was conducted by Examiner Handford at Bakersfield, at which time the matter was duly submitted for decision.

H street runs parallel with Chester avenue, the main north and south highway of the city of Bakersfield, and is located two blocks west thereof. It is now improved as far north as Twenty-eighth street. Chester avenue crosses the tracks of Southern Pacific Company at Thirty-second street and connects at Thirty-fourth street with the state

highway which extends north through the San Joaquin Valley. As the above is shown by the map, Exhibit No. 1, filed in this proceeding.

The Kern County fair grounds are located west of Chester avenue and north of the railroad tracks. Chester avenue affords the only highway entrance to this property. It is proposed to extend H street to the north, thereby providing another automobile entrance to the fair grounds.

At times when no special events are in progress at the fair grounds the existing crossing at Chester avenue is ample to accommodate the vehicular traffic across the railroad. It appears, however, when the county fair is in progress, covering a period of about five days each year, that there is considerable congestion on Chester avenue near the fair grounds, occasioned by through traffic on the highway and the local traffic turning into and out of the fair grounds. To relieve this condition the extension of H street, from Bakersfield across the railroad to the fair grounds, is proposed.

At the point of proposed crossing the railroad maintains and operates four tracks, to wit, beginning at the most southerly one, one main line track, one passing track, one ice house track and one spur track. The respective distances between these tracks are as follows: 18.2 feet, 14.2 feet and 60 feet. The tracks are on different levels, the ice track being nearly two feet lower than the main line, and it would be necessary to raise the passing track and the ice house track to the same elevation as the main line before a desirable crossing could be constructed. Furthermore, there is in place a 36-inch concrete siphon under the tracks which would have to be lengthened. The total cost, estimated by the railroad company, of constructing the crossing, including the above mentioned improvements and installing a wig-wag signal amounts to \$3,500. In addition to the cost of the crossing, it would be necessary to grade and pave H street from Twenty-eighth street to the fair grounds. The cost of such work has not been estimated.

The record shows that during the time the fair is in operation, through traffic from the north can be diverted east and south by way of Fortier street and Jewett avenue into Bakersfield. By this route the traffic would cross the railroad at the existing crossing at M and Thirtieth streets. By the improvement of the M street crossing and diverting of through traffic to it, a large amount of the congestion could be avoided. Owing to the fact that the proposed crossing is only two blocks northwesterly from the Chester avenue crossing; that there is an alternate route available to detour traffic during the time that the fair is in session and that it would result in a crossing which would be comparatively hazardous as well as expensive to construct and serving a useful purpose for only a few days during each year, we conclude and hereby find as a fact that public convenience and necessity do not justify the granting of this application.

ORDER.

The board of supervisors of the county of Kern, having made application for permission to construct a public highway at grade across the tracks of Southern Pacific Company at H street, a public hearing having been held, the matter having been duly submitted and the Commission being now fully advised and basing its order on the finding of fact as appearing in the foregoing opinion;

It is hereby ordered, that this application be and the same hereby is denied.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19181.

IN THE MATTER OF THE INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE REASONABLENESS OF PROPOSED STANDARDS FOR PROTECTION OF CROSSINGS OF HIGHWAYS WITH RAILROADS AND STREET RAILROADS.

Case No. 2292.

Decided December 23, 1927.

CROSSINGS—IDENTIFICATION OF.—Supplement No. 1 cancelling section III of General Order No. 75 adopted, re identification of public crossings.

CROSSINGS—IN GENERAL—IDENTIFICATION.—Supplement No. 1 to General Order No. 75 provides that carriers shall paint or maintain an identification number on the crossing signpost of each crossing, "except at crossings of named streets within incorporated cities or at crossings which have been exempted by order of the Commission from compliance with the terms of section V of General Order No. 75."

BY THE COMMISSION.

FIRST SUPPLEMENTAL ORDER.

Whereas, the Railroad Commission, on January 12, 1927, issued its General Order No. 75 governing the protection of crossings at grade of roads, highways and streets with railroads or street railroads in the State of California.

Whereas, a number of interurban electric railroads have applied to the Railroad Commission for orders granting exemption of certain crossings on their lines from the requirements of section V, of said General Order No. 75; and

Whereas, such exemptions have been granted by formal orders of the Commission, which makes impractical the carrying out of section III of said general order at certain crossings; and

Whereas, it therefore appears desirable to modify said section III of said General Order No. 75 to permit of the omission of the installation of crossing numbers at certain crossings within municipalities where streets are named, or at crossings which have been exempted from the installation of Standard No. 1 crossing signs, Standard No. 2 crossing signs, or both, by order of the Commission; therefore,

CALIFORNIA RAILROAD COMMISSION DECISIONS.

It is hereby ordered, that on and after the date of this order, section III of General Order No. 75 shall be amended to read as follows:

III. *Identification of Public Crossings.*

Carriers shall paint or otherwise maintain on the crossing signposts or other structure at each public crossing of its tracks, *except at crossings of named streets within incorporated cities or at crossings which have been exempted by order of the Commission from compliance with the terms of section V of General Order No. 75*, an identification number, preceded by the words "Crossing No." provided that this Commission shall have assigned such identification number and shall have notified the carrier thereof. Such number shall be placed so as to be readily legible from the highway. In all matters pertaining to a crossing brought to the attention of the Commission, reference shall be given to the assigned crossing number except as to the said exempted crossings, which may be referred to either by assigned number or street name, depending on which is most convenient.

It is hereby further ordered, that said amended section III shall be designated as Supplement No. 1 to General Order No. 75, cancelling section III of General Order No. 75.

This order shall become effective on the date hereof.

Dated at San Francisco, California, this twenty-third day of December, 1927.

SUPPLEMENT No. 1 TO GENERAL ORDER No. 75.

(Cancels Section III of General Order No. 75.)

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.
REGULATIONS GOVERNING THE PROTECTION OF CROSSINGS
GRADE OF ROADS, HIGHWAYS AND STREETS WITH RAILROADS
OR STREET RAILROADS IN THE STATE OF CALIFORNIA.

Approved December 23, 1927. Effective December 23, 1927.

III. *Identification of Public Crossings.*

Carriers shall paint or otherwise maintain on the crossing signposts or other structure at each public crossing of its tracks, *except at crossings of named streets within incorporated cities or at crossings which have been exempted by order of the Commission from compliance with the terms of section V of General Order No. 75*, an identification number, preceded by the words, "Crossing No.---," provided that this Commission shall have assigned such identification number and shall have notified the carrier thereof. Such number shall be placed so as to be readily legible from the highway. In all matters pertaining to a crossing brought to the attention of the Commission, reference shall be given to the assigned crossing number except as to the said exempted crossings, which may be referred to either by assigned number or street name, depending on which is most convenient.

Approved and dated at San Francisco, California, this twenty-third day of December, 1927.

RAILROAD COMMISSION OF THE STATE OF CALIFORNIA,

By H. G. MATHEWSON, *Secretary*.

DECISION No. 19183.

IN THE MATTER OF AN INVESTIGATION ON THE COMMISSION'S OWN MOTION INTO THE PRACTICES AND OPERATIONS OF O. P. HAZARD, OPERATOR OF A PUBLIC UTILITY AUTOMOTIVE SERVICE FOR THE TRANSPORTATION OF PERSONS AND PROPERTY BETWEEN SANTA MARIA AND TAFT AND INTERMEDIATE POINTS.

Case No. 2431.

IN THE MATTER OF THE APPLICATION OF O. P. HAZARD TO SELL AND PAUL DERKUM AND CHAS. E. SANSOME TO PURCHASE AN AUTOMOBILE LINE (PASSENGER AND EXPRESS), OPERATING BETWEEN SANTA MARIA, CALIFORNIA, AND TAFT, CALIFORNIA.

Application No. 14206.

Decided December 23, 1927.

AUTOMOTIVE TRANSPORTATION—REVOCATION OF OPERATIVE RIGHT.—O. P. Hazard having abandoned service without authorization, operative rights for the transportation of passengers, baggage and express between Santa Maria and Taft revoked. Application of Paul Derkum to purchase said line denied.

Paul Derkum, for Applicants Derkum and Sansome.

BY THE COMMISSION.

OPINION.

In Case No. 2431, the Commission, on its own motion, instituted an investigation regarding the practices and operations of O. P. Hazard, operating a public utility auto stage service for the transportation of persons and property between Santa Maria and Taft and intermediate points, and in connection with such investigation ordered said O. P. Hazard to appear on November 10 and December 15, 1927, before Examiner Handford at the courthouse at Bakersfield to show cause why any or all operative rights possessed by said Hazard under the authority of this Commission's Decision No. 12567, or otherwise, should not be revoked or annulled by this Commission because of abandonment of service. Due service of the order to show cause was regularly made by registered mail.

In Application No. 14206, O. P. Hazard has petitioned for authority to sell to, and Paul Derkum and Chas. E. Sansome, as copartners, for authority to purchase and hereafter operate the stage line between Santa Maria and Taft as same was authorized by this Commission's Decision No. 12567, on Application No. 9028, decided September 4, 1923.

Public hearings on the above entitled matters were conducted by Examiner Handford at Bakersfield, the matters were consolidated for

the purpose of receiving evidence and for decision, and were duly submitted.

The operative rights under investigation herein are those heretofore granted to O. P. Hazard by Decision No. 12567, on Application No. 9028, as decided September 4, 1923, authorizing the operation of an automobile stage line as a common carrier of passengers, baggage and express between Santa Maria and Taft and the intermediate points of Suey Ranch, Alamo, Permasse, Spanish Ranch, Caliente Ranch, Cuyama and Maricopa.

The records of the Commission show that advices had been received that operation of the line had been discontinued and letters of inquiry addressed to the respondent at his last known address at Arroyo Grande were returned by the postal authorities endorsed "unclaimed."

Respondent did not appear at the hearing, having previously advised the Commission, by letter under date December 10, 1927, that operation had been suspended without permission having been requested or obtained, and that it was his desire to be excused from further operation of the line.

Respondent having admitted that operation of the stage line had been discontinued without authority having been obtained from the Commission, such authority being required under the provisions of the order granting the certificate, the order herein will provide for the revocation of the certificate heretofore granted.

In view of the fact that the operative rights of O. P. Hazard have not been validated by continuous and regular operation in accordance with the provisions of this Commission's order as contained in Decision No. 12567, on Application No. 9028, as decided September 4, 1923, and that service therein authorized has been discontinued without permission having been secured from this Commission, and that such operative rights are revoked by the accompanying order, the application to transfer same to the copartnership of Paul Derkum and Chas. E. Sansome will be denied.

ORDER.

Public hearings having been held on the above entitled matters, which were duly submitted; and the Commission being now fully advised;

It is hereby ordered, that the certificate of public convenience and necessity for the operation by respondent O. P. Hazard of an automobile stage line as a common carrier of passengers, baggage and express between Santa Maria and Taft and the intermediate points of Suey Ranch, Alamo, Permasse, Spanish Ranch, Caliente Ranch, Cuyama and Maricopa, as granted on September 4, 1923, by this Commission's Decision No. 12567, on Application No. 9028, be and the same hereby is revoked and annulled; and

It is hereby further ordered, that Application No. 14206 be and the same hereby is denied.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19184.

PAN AMERICAN PETROLEUM COMPANY, A CORPORATION,

vs.

PACIFIC ELECTRIC RAILWAY COMPANY, A CORPORATION.

Case No. 2445.

Decided December 23, 1927.

REPARATION—Pacific Electric Railway Company directed to refund to Pan American Petroleum Company all charges collected in excess of three cents per hundred pounds on three carloads of petroleum gas oil shipped during July, 1926, from Watson to Los Angeles.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the State of California, with its principal place of business at Los Angeles, is engaged in producing, refining and marketing petroleum oil and its products. By complaint filed November 18, 1927, it alleges that the rate charged on three carloads of petroleum gas oil shipped during July, 1926, from Watson to Los Angeles, was unreasonable, in violation of section 13 of the Public Utilities Act of the State of California to the extent it exceeded the subsequently established rate of 3 cents.

Reparation only is sought. Rates are stated in cents per 100 pounds.

The lawful rate applicable to gas oil of 4 cents shown in Item 895-A of defendant's Tariff 120-C, C. R. C. 289, was charged. The contemporaneous rate on crude and fuel oil was 3 cents and a rate of the same volume was published effective February 18, 1927, applicable to the transportation hereinbefore described.

In Case No. 2182, *Gilmore Oil Company et al. vs. Southern Pacific Company et al.*, Volume 28, C. R. C. 878, we found that the rates on petroleum gas oil from numerous points in southern California to Los Angeles and O'Donnell spur were unreasonable to the extent they exceeded the contemporaneous rates on petroleum crude oil and awarded reparation to the basis of the crude oil rates.

Complainant bases its plea for reparation upon the subsequently established rate. Defendant admits that the rate charged was unreasonable to the extent it exceeded 3 cents and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing will not be necessary.

Upon consideration of all the facts of record we are of the opinion and find that the rate assailed was unreasonable to the extent it exceeded the subsequently established rate of 3 cents. We further find that complainant paid and bore the charges on the shipments involved in this proceeding and has been damaged to the extent of the difference between the freight charges paid and those that would have accrued at the rate herein found reasonable, and that it is entitled to reparation.

Complainant will submit statement to defendant for check. Should it not be possible to reach an agreement as to the amount of reparation the matter may be referred to the Commission for further attention and the entry of a supplemental order should such be necessary.

ORDER.

This case being at issue upon complaint and answer on file, full investigation of the matters and things involved having been had, and basing this order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that the defendant, Pacific Electric Railway Company, be and it is hereby authorized and directed to refund to complainant Pan American Petroleum Company of Los Angeles, California, all charges it may have collected in excess of 3 cents per 100 pounds on the shipments involved in this proceeding and moved from Watson to Los Angeles during July, 1926.

Dated at San Francisco, California, this twenty-third day of December, 1927.

DECISION No. 19185.

GLADDING, McBEAN AND COMPANY

vs.

SOUTHERN PACIFIC COMPANY.

Case No. 2448.

Decided December 23, 1927.

REPARATION.—Southern Pacific Company directed to refund to Gladding, McBean and Company all charges collected in excess of thirty-two cents per one hundred pounds for the transportation of one carload of brick forwarded from Los Angeles to Fresno, February 6, 1926.

BY THE COMMISSION.

OPINION.

Complainant, a corporation organized under the laws of the State of California, with its principal office at San Francisco, is successor in interest of the Los Angeles Pressed Brick Company. By complainant filed November 29, 1927, it alleges that the rate charged for the transportation of one carload of enameled brick and wire cut faced brick

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Los Angeles to Fresno during February, 1926, was unjust and unreasonable and in violation of section 13 of the Public Utilities Act of the State of California to the extent that it exceeded the subsequently established rate of 32 cents.

Reparation only is sought. Rates are stated in cents per 100 pounds. The shipment involved weighed 48,800 pounds and the lawfully applicable Class "B" rate of 42½ cents was charged. Concurrently there was a commodity rate of 32 cents applicable from Los Angeles to Fresno on brick, enameled and glazed, in straight or mixed carloads. The rate was shown in defendant's Tariff 825-D, C. R. C. 3168, 620.

Effective November 20, 1926, defendant amended Item 620 of its Tariff 825-D by adding the following:

"brick, wire cut faced."

The item also carried a provision that wire cut faced brick may be used in mixed carloads with glazed or enameled brick.

Complainant bases its plea for reparation upon the lower rate subsequently established. Defendant admits that the rate charged was unreasonable and has signified a willingness to make reparation adjustment, therefore under the issues as they now stand a formal hearing need not be necessary.

On consideration of all the facts of record we are of the opinion and find as a fact that the rate charged was unreasonable to the extent it exceeded the subsequently established rate of 32 cents; that complainant made the shipment as described, paid and bore the charges on and is entitled to reparation in the sum of \$51.24.

ORDER.

In this case being at issue upon complaint and answer on file, investigation of the matters and things involved having been had, and basing our order on the findings of fact and the conclusions contained in the opinion, which said opinion is hereby referred to and made a part hereof;

It is hereby ordered, that defendant, Southern Pacific Company, be and it is hereby authorized and directed to refund to complainant, William McBean and Company of San Francisco, California, all monies it may have collected in excess of 32 cents per 100 pounds for transportation of one carload of enameled brick and wire cut faced brick involved in this proceeding and forwarded from Los Angeles to Fresno, February 6, 1926.

Witness my hand at San Francisco, California, this twenty-third day of December, 1927.

DISMISSALS.

AUTO STAGE APPLICATIONS.

GRADE CROSSINGS.

MISCELLANEOUS AND SUPPLEMENTAL ORDERS.

TABLE A—DISMISSALS (Cases).

Dec. No.	Case No.	Litigants	Date
18490	841	City and County of San Francisco vs. The Pacific Telephone and Telegraph Company.	June 9, 1927
18491	1354	Commissioner's investigation into rates, charges, rules and regulations of The Pacific Telephone and Telegraph Company.	June 9, 1927
18523	2264	Sam Rieve et al. vs. Roy Wilbur, Mary E. Baker and Florence May Flannigan.	June 17, 1927
18547	1448	The Pond Farm Center of the Kern County Farm Bureau vs. The Atchison, Topeka and Santa Fe Railway Company.	June 27, 1927
18565	1308	J. L. Kochin, In the matter of the auto transportation service and rates of.	June 28, 1927
18605	2177	W. H. Daum vs. Los Angeles and Salt Lake Railroad Company, Pacific Electric Railway Company et al.	July 9, 1927
18617	1820	Bell-Maywood-Cudahy Chamber of Commerce and Woman's Club of Cudahy vs. Chas. B. Holbrook.	July 13, 1927
18618	1817	G. F. Marsh vs. James A. Walker and Owens Valley Transportation Company.	July 13, 1927
18643	2130	Charles L. Edgerton et al. vs. Los Angeles Railway Company.	July 13, 1927
18673	2372	Southwestern Portland Cement Company vs. Postal Telegraph-Cable Company.	July 21, 1927
18681	2326	Bay and River Boat Owners Association vs. Erikson Navigation Company.	Aug. 4, 1927
18682	2327	Bay and River Boat Owners Association vs. Fred F. Ball.	Aug. 4, 1927
18745	2247	Petrolia Stage Company vs. A. W. Way and John Doe Stage Company.	Aug. 10, 1927
18768	1517	Town of Belvedere, Inc., vs. Northwestern Pacific Railroad Company.	Sept. 14, 1927
18799	2336	Ben Lee et al. vs. Cazadero Water Works (George S. Montgomery).	Sept. 14, 1927
18832	2339	Cazadero Community Club vs. George S. Montgomery and Carrie Judd Montgomery.	Sept. 14, 1927
	1718	Investigation by Commission into safety of grade crossing and necessity for separation of grades at crossing of Southern Pacific tracks at westerly end of Park Avenue in town of Emeryville.	Oct. 17, 1927
18868	2046	City of South San Francisco vs. Market Street Railway Company, South San Francisco Railroad and Power Company and Southern Pacific Company.	Oct. 25, 1927
19023	2427	Globe Grain and Milling Company vs. Southern Pacific Company.	Nov. 7, 1927
19064	2373	Yosemite Park and Curry Company vs. Southern Pacific Company and The Atchison, Topeka and Santa Fe Railway Company.	Nov. 30, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
18474	12615	Edward B. Collinge.....	To operate "on demand" auto truck service between Los Angeles and various points.	June 9, 1927
18492	10767	Davies Warehouse Company.....	To issue \$35,000 of notes.....	June 9, 1927
18493	13725	Los Angeles County Flood Control District.....	To construct, maintain and operate single track line of railroad across tracks of Pacific Electric Railway Company at Azusa.....	June 9, 1927
18494	1870	The Pacific Telephone and Telegraph Company.....	For an investigation of its rates, tolls, rentals, charges, contracts, etc.....	June 9, 1927
18495	3765	Postal Telegraph-Cable Company.....	To change telephone rates between San Francisco and Sacramento and San Francisco and Stockton.....	June 9, 1927
18573	13509	C. A. Winegar.....	To operate stage line carrying passengers, express, light and heavy freight between Redding, Shasta County, and Whitmore and return via Fern, Millville and Redding.	July 8, 1927
18578	13242	Napa Precooling and Cold Storage Company.....	To issue and sell capital stock.....	July 8, 1927
18579	13478	Independent Warehouse Company.....	To issue stock.....	July 8, 1927
18581	10147	Taylor Trucking Company.....	To operate auto freight service between Los Angeles Harbor and various points.....	July 8, 1927
18581	11448	Pacific Gas and Electric Company and Sierra and San Francisco Power Company.....	To determine allocation between capital and operating expense of the annual charges to be paid by applicants to Oakdale Irrigation District and South San Joaquin Irrigation District.....	July 21, 1927
18672	13218	Needles Gas and Electric Company.....	To decrease certain existing rates for gas and to provide for an automatic readjustment of rates in accordance with the rise and fall in cost of fuel oil.....	July 21, 1927
18680	13890	Northwestern Pacific Railroad Company.....	To construct spur track at grade across State Highway at Asylum (Ukiah), Mendocino County.....	Aug. 4, 1927
18703	11765	Postal Telegraph-Cable Company.....	To determine whether a certificate is required for the operation of intrastate telegraph business in Brawley, El Centro and Calexico, Imperial County.....	Aug. 8, 1927
18715	13838	Lewis A. Monroe (Agent for Pasadena Express and Freight Service).....	To readjust freight rates and minimum charges.....	Aug. 13, 1927
18780	11811	Colfax Draying Company.....	To operate auto truck service to and from town of Colfax, Placer County.....	Aug. 18, 1927
18736	11237	Frank Davies and R. N. McCormack.....	To operate auto truck service between Sacramento, Nevada City and certain intermediate points.....	Aug. 19, 1927
18737	11332	Schneider Brothers.....	To operate auto truck service between Sacramento and Nevada City and intermediate points via Auburn and Grass Valley.....	Aug. 19, 1927
18738	12522	Schneider Brothers.....	To operate auto truck line between Sacramento and Colfax and intermediate points via Roseville and Auburn.....	Aug. 19, 1927
18739	12789	M. C. Langstaff.....	To operate auto freight service between Auburn and Grass Valley and Nevada City.....	Aug. 19, 1927
18740	12795	George H. Calanan, Agent.....	To operate auto freight service between Nevada City, Grass Valley and Sacramento, and between Auburn, Grass Valley and Nevada City and intermediate points.....	Aug. 19, 1927
18741	13700	The Atchison, Topeka and Santa Fe Railway Company.....	To require city of San Diego to construct, install and maintain safety devices for the protection of crossing at Harasathy and West Atlantic Streets in said city.....	Aug. 19, 1927
18774	13855	The Southern Sierras Power Company.....	To issue and sell bonds.....	Sept. 8, 1927
18781	13633	W. F. Kime.....	To install and conduct water system.....	Sept. 10, 1927

18786	12662	Santa Rosa, Petaluma, Sausalito Auto Stage Company.....	To operate auto stage service between Oakland, Alameda County, and San Rafael, Marin County.....	Sept. 13, 1927
18813	11237	Frank Davies and R. N. McCormack.....	To operate auto truck service between Sacramento, Nevada City and certain intermediate points.....	Sept. 14, 1927
18814	12522	Schneider Brothers.....	To operate auto truck line between Sacramento and Colfax and intermediate points via Roseville and Auburn.....	Sept. 14, 1927
18838	14012	California Independent Telephone Association.....	For extension of effective date of General Order No. 74.....	Sept. 27, 1927
18855	13885	Southern California Gas Company and Central Counties Gas Company.....	Former to buy all of the capital stock and properties of latter in the cities of Lindsay, Tulare, Exeter, Porterville and Visalia.....	Sept. 30, 1927
18856	13886	Southern California Gas Company and Hanford Gas and Power Company.....	Former to buy all of the capital stock and properties of the latter in the city of Hanford.....	Sept. 30, 1927
18868	13884	Southern California Gas Company and River Bend Gas and Water Company.....	Former to buy all of the capital stock and properties of the latter in the cities of Dinuba, Kingsburg, Sanger and Reedley.....	Oct. 4, 1927
18902	13823	Southern Pacific Company.....	To abandon non-agency station at Eagle Point, Shasta County.....	Oct. 4, 1927
18903	11921	Mike Lang Transportation Company.....	To operate auto truck service.....	Oct. 6, 1927
18916	13935	A. A. Peters, trustee in bankruptcy of estate of South Shore Port Company, Inc.....	To establish certain class and commodity rates.....	Oct. 8, 1927
18917	14048	Sierra Van and Storage Company and L. R. Kagarise.....	Former to sell to latter auto freight line operating between Pasadena and Los Angeles.....	Oct. 8, 1927
18925	2609	The Atchison, Topoka and Santa Fe Railway Company and Visalia Electric Railroad Co.....	For modification of Decisions Nos. 3863 and 4314.....	Oct. 14, 1927
18942	2690	The Atchison, Topoka and Santa Fe Railway Company and Visalia Electric Railroad Co.....		
18942	14036	Sacramento-Fair Oaks Stage Line (George R. Zuehlh)	To establish commutation fares and rules and regulations to govern same.....	Oct. 19, 1927
18972	12641	McCutchen-Chappell Company.....	To operate auto trucks for transportation of gasoline and petroleum products.....	Oct. 27, 1927
19073	14127	Palm Valley Water Company.....	To increase its capital stock.....	Oct. 27, 1927
19003	11796	Petroleum Transport Company.....	To operate auto truck line.....	Nov. 4, 1927
19004	12718	Colletti Truck Company.....	To operate auto truck line.....	Nov. 4, 1927
19019	13934	Willowbrook Water Company and Los Angeles Water Service Company.....	Former to sell and transfer to latter its properties.....	Nov. 4, 1927
19042	14102	Motor Service Express and L. R. Kagarise.....	Former to sell to latter auto freight line operated between Los Angeles, Venice, Ocean Park, Santa Monica, Sherman, Palms, Sawtelle, Soldiers Home, Culver City, Beverly Hills and intermediate points.....	Nov. 12, 1927
19051	13650	Oakland Title Insurance and Guaranty Company.....	To construct railroad crossing.....	Nov. 19, 1927
19061	13924	El Piano Water Company.....	For permission to change meter rates.....	Nov. 30, 1927
19063	14168	Frank A. Devine.....	For certificate to operate auto freight service between Stockton and Jackson.....	Nov. 30, 1927
19083	13762	Postal Telegraph-Cable Company.....	To increase long distance telephone rates to and from Heppner and Victorville.....	Dec. 2, 1927
19132	13900	Pacific Coast Terminal Warehouse Company.....	To issue stock.....	Dec. 23, 1927
19143	13736	Santa Maria Gas Company.....	To enter into contract for sale of gas for industrial purposes; to issue and sell bonds.....	Dec. 23, 1927
19144	13923	Feather River Pine Mills, Inc.....	For permission to cross Cascade County by tram road.....	Dec. 23, 1927
19145	14052	T. V. Wheeler.....	To discontinue furnishing of water at Oceano.....	Dec. 23, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Action	Date
18478	13755	City and Suburban Package Delivery and United Parcel Service of Los Angeles, Inc.....	Former to transfer to latter operative rights for transportation of property of limited weight between Los Angeles and adjacent territory.....	Granted	June 9, 1927
18481	13812	E. Georgine Root, administratrix of estate of A. H. Root, deceased.....	To transfer one-half interest in auto passenger and freight line operated between Redding and Weaverville formerly by Alward and Root, a partnership, to Leslie T. Alward, and the latter for certificate to operate auto passenger, freight, express and baggage service between Redding and Big Bar, serving Shasta, Stella, Oak Bar, Tower House, etc.....	Granted	June 9, 1927
18496	10148	Asbury Truck Company.....	Petitions of Bakersfield and Los Angeles Fast Freight et al., protestants, for rehearing of application of Asbury Truck Company to operate auto truck service between all points in California.....	Denied	June 9, 1927
18497	10859 10858 10883 10307	Lee B. Hawkins..... Wilmington Transfer and Storage Company..... Stacey's Transfer and Storage Company..... J. A. Clark Draying Company.....	Petition of Bakersfield and Los Angeles Fast Freight et al., protestants, for rehearing of matters decided by Commission in Decision No. 18150.....	Denied	June 9, 1927
18501	12298	V. V. Anderson.....	To operate auto freight and express line between Monticello and Sacramento and intermediate points, provided no freight shall be transported locally between Winters and Sacramento.....	Granted	June 13, 1927
18514	11568	Richards Trucking and Warehouse Company.....	Petition of Triangle and Orange County Express, protestant, for rehearing of Commission's Decision No. 18216.....	Denied	June 14, 1927
18516	13249	C. A. Johnson.....	Petition for rehearing of application to operate auto stage line between Sausalito and Sebastopol and intermediate points.....	Denied	June 14, 1927
18521	13832	Hubert A. Adams.....	To sell and San Diego Electric Railway Company to purchase operative right and equipment of Lloyd's El Cajon Stage Line operated between San Diego and El Cajon.....	Granted	June 15, 1927
18526	13431	Joseph K. Hawkins.....	To extend present service to Pasadena over and along the following route: via Valley Boulevard to San Gabriel Boulevard, thence north on San Gabriel Boulevard to Colorado Street, thence west on Colorado street to city of Pasadena.....	Granted	June 20, 1927
18529	13844	G. Lawrence Ritchie and W. W. Wood.....	Former to sell and transfer to latter one-half interest in auto passenger and freight line between San Diego and Warner's Hot Springs and certain intermediate points, and auto freight service between San Diego and Julian and intermediate points.....	Granted	June 20, 1927
18538	13526	Isaac Shakarian, Tom Kardashian, Joe Porumean and S. J. Stratton.....	To operate auto milk, cream and other dairy products service between Ontario, El Monte, Pasadena and Los Angeles and certain named districts.....	Granted	June 22, 1927

18548	11563	Santa Rosa, Petaluma, Sausalito Auto Stage Company-----	To operate auto stage line between Novato, Marin County, and Napa, Napa County, and intermediate points, as extension of present service between Sausalito and Calistoga.-----	Denied	June 27, 1927
18552	13868	Beacon Service Corporation and Sequoia and General Grant National Parks Company-----	Former to transfer to latter operative rights for auto passenger and freight line between Fresno and General Grant Park and Hume and intermediate points.-----	Granted	June 27, 1927
18559	12938	H. E. and P. W. Holmes (Garden Highway Truck Line)-----	For rehearing of application to operate through auto freight service between Sacramento and Yuba City and Sacramento and Marysville.-----	Denied	June 27, 1927
18562	13865	J. C. Orvis (Los Angeles-Compton Transportation Company)-----	To sell to S. B. Cowan operating right for auto truck line between Los Angeles and Compton and intermediate points.-----	Granted	June 28, 1927
18574	13646	M. F. Rohn (Klamath-Weed Stages)-----	To operate auto stage service between Weed and California-Oregon state line between towns of Midland, Oregon, and Dorris, California.-----	Granted	July 8, 1927
18583	11602	Edward Bahler-----	To operate auto truck service between Yucapa and San Bernardino via Yucaipa Road and State Highway; between all other points and San Bernardino over main county roads; between San Bernardino and Los Angeles via Valley Boulevard through Bloomington and Ontario, for certain commodities.-----	Granted	July 8, 1927
18586	13727	Frank Akamatsu-----	To operate auto truck service for transportation of packed and loose fresh fruits and vegetables only, and empty containers for same, between Red Hill, Lemon Heights, along Sky Line Drive, Hewes Park and El Modens and Los Angeles.-----	Granted	July 8, 1927
18599	13874	J. O. Jones and D. H. Jones.-----	To sell to Fred A. Ruple an operating right for an auto passenger and express line between Emigrant Gap and Foley's Camp.-----	Granted	July 8, 1927
18600	13577	Lloyd's Transportation Company and H. A. Spreitz-----	Former to sell to latter an auto passenger line between Santa Barbara, Montecito, Summerland, Carpinteria and intermediate points.-----	Granted	July 8, 1927
18639	12359 12510	Napa Valley Bus Company----- California Transit Company-----	Petition of California Transit Company for rehearing of Decision No. 18217.-----	Denied	July 13, 1927
18644	12801	San Francisco, Napa and Calistoga Railway-----	To extend motor truck service.-----	Denied	July 13, 1927
18690	13191	K. Oganessoff and T. Oskanoff----- W. N. Harris and Wm. Frailey-----	Former to lease to latter an auto passenger and freight line between Cedarville and Fort Bidwell and intermediate points.-----	Granted	Aug. 8, 1927
18691	13611	Riccardo Tunzi and Louis Costa (Salinas Valley Freight Line)-----	To operate auto truck line between San Francisco and southerly limits of Salinas, Chualar, Gonzales, Soledad, Greenfield and King City and all intermediate points between southerly city limits of Salinas and King City.-----	Granted	Aug. 8, 1927
18693	13692	E. E. Starks Transportation Company-----	To operate auto truck line between Fresno and Forterville and intermediate points.-----	Denied	Aug. 8, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Action	Date
18704	13656	Turner Lillie.....	To operate auto stage line for transportation of express between Angels Camp and Dorrington, and for passengers, baggage and express between Dorrington and Lake Alpine, as extension of service between Stockton, Angels Camp and Dorrington and intermediate points.....	Granted	Aug. 13, 1927
18722	13665	R. H. Beanland.....	To operate auto truck service between Stockton and Murphys and intermediate points.....	Granted	Aug. 17, 1927
18731	12801	K. Oganessoff and T. Oskanoff.....	For rehearing of application to extend service.....	Denied	Aug. 18, 1927
18732	13646	Klamath-Weed Stages (M. F. Rohn).....	Petition of Southern Pacific Company, protestant, for rehearing of application for certificate.....	Denied	Aug. 18, 1927
18756	14006	Los Gatos and San Jose Express Company (H. O. Crymble) and Pioneer Express Company	Former to sell to latter auto freight line between San Jose and Los Gatos.....	Granted	Aug. 31, 1927
18766	14029	Joe and Ed's Express.....	To sell auto freight line to Harry Fleischer operated between Los Angeles and Pasadena.....	Granted	Sept. 3, 1927
18776	12667	California Highway Express.....	To operate auto truck service for transportation of household goods, etc., between Los Angeles and Santa Barbara and intermediate points, and between Los Angeles and Bakersfield and intermediate points as enlargement of present service.....	Granted	Sept. 10, 1927
18791	13734	Harry C. MacFarlane.....	To operate auto freight service between Fresno and Hanford and Fresno and Corcoran, serving Laton and Guernesey and all intermediate points between Fowler and Corcoran.....	Denied	Sept. 14, 1927
18828	13937	J. H. Lord.....	To change routing through city of La Verne of auto stage service.....	Granted	Sept. 23, 1927
18865	14020	O. W. Talbot and L. J. Seely.....	To sell and Curtis G. Bender to purchase the one-half interest of L. J. Seely in an auto stage line between Sacramento and Plymouth.....	Granted	Oct. 4, 1927
18867	14017	R. R. Wilson.....	To sell to James R. Proper an auto passenger line between Mojave and Randaburg and between Randaburg and Seales.....	Granted	Oct. 4, 1927
18871	14003	Scott Williams.....	To sell to Philip Bagione and Circo Cuccio operating right for auto stage line between Los Angeles and Watts.....	Granted	Oct. 4, 1927
18872	8534	A. E. Canfield.....	To discontinue auto service between Harriston and Santa Maria.....	Granted	Oct. 4, 1927
18874	11160	Pickwick Stages System.....	To lease to A. E. Canfield operating rights for auto service between Buelton and Lompoc.....	Granted	Oct. 4, 1927
18876	13314	W. W. Allen and C. A. Curtis.....	To operate auto stage line between Cloverdale and Fort Bragg and intermediate points via Wendling and Albion; no passengers or packages to be transported locally between Cloverdale and Wendling and intermediate points.....	Granted	Oct. 4, 1927
	13482	George L. Ledford.....	To operate auto passenger and baggage service between Cloverdale and Fort Bragg and intermediate points.....	Denied	Oct. 4, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

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18880	13770	Robert V. Hardie.....	To operate auto truck service between Los Angeles and Bishop and intermediate points, excepting between Los Angeles and Mojave.....	Denied	Oct. 4, 1927
18882	13925	Anderson Brothers.....	To operate auto stage service between Bridgeport and Mono Lake and intermediate points, as extension of present service.....	Granted	Oct. 4, 1927
18883	13929	Richards Trucking and Warehouse Company.....	To operate auto truck service between Los Angeles and the Los Angeles Harbor District.....	Granted	Oct. 4, 1927
18884	13941	Belvedere Gardens Bus Line (A. B. Dunphy).....	To increase passenger fares.....	Granted	Oct. 4, 1927
18885	14049	Pickwick Stages System and E. C. Craig.....	Former to lease to latter operating rights for auto passenger and express matter service between Buclton, Solvang, Los Olivos and Santa Ynez. To transfer to Estelle Trueblood a one-half interest in an auto truck line between Los Angeles and Whittier.....	Granted	Oct. 4, 1927
18887	14076	Carl B. Trueblood (Independent Truck Company)	To sell and transfer to Charles E. Smith operating right for auto freight line between Los Angeles and Long Beach.....	Granted	Oct. 4, 1927
18888	14087	Allison's Auto Express.....	Former to lease to latter operating rights for auto passenger and baggage service between Yosemite Junction and Groveland, and freight between Chinese and Groveland.....	Granted	Oct. 4, 1927
18889	14097	California Transit Company and Ernest Caplinger	To sell and transfer to Joseph K. Hawkins operating right for an auto freight service between so-called Ontario district, near Los Angeles, and Los Angeles, Pasadena and El Monte.....	Granted	Oct. 8, 1927
18906	14068	Shakarian, Kardashian, Perumean and Stratton.....	To sell and transfer to Guy C. Coykendall operating right for auto passenger and property service between Belden and Chester.....	Granted	Oct. 8, 1927
18907	14075	J. F. Mergenthaler and C. A. Coykendall.....	To sell to Tanner Motor Livery operating right for sightseeing tours out of and returning to Los Angeles.....	Granted	Oct. 8, 1927
18908	14110	Golden State Auto Tours Corporation.....	To operate auto passenger service between Ferry Landing, East San Pedro, and Hyatt and Anaheim Streets, Wilmington.....	Granted	Oct. 19, 1927
18935	14005	Harry Drake.....	For rehearing of application to operate auto passenger service between San Diego and La Mesa and intermediate points.....	Denied	Oct. 25, 1927
18950	13617	Fred Sutherland.....	Petition of Sierra Railway Company of California and American Railway Express Company, protestants, for rehearing of application to operate auto truck service between Stockton and Murphys.....	Denied	Oct. 25, 1927
18951	13665	R. H. Bealand.....	For rehearing of application to extend auto stage service between Los Angeles and San Francisco, etc.....	Denied	Nov. 3, 1927
18997	13766	Pickwick Stages System.....	Former to sell to latter auto freight line operated between Los Angeles, Alhambra, San Gabriel, East San Gabriel, Arcadia and intermediate points.....	Granted	Nov. 4, 1927
19012	13970	H. H. Walker and L. R. Kagarise.....	Former to sell to latter auto freight line operated between Glendale and Los Angeles and intermediate points.....	Granted	Nov. 4, 1927
19013	14046	James Little and L. R. Kagarise.....	Former to sell to latter auto freight line operated between Monrovia and Los Angeles.....	Granted	Nov. 4, 1927
19014	14047	Walker H. Rasin and L. R. Kagarise.....	Former to lease to latter auto stage line between Pomona and San Dimas and between Pomona and Chino.....	Granted	Nov. 4, 1927
19016	14165	Motor Transit Company and J. O. Maupin.....	Former to sell to latter operating rights for auto truck service between Los Angeles and San Fernando and intermediate points.....	Granted	Nov. 28, 1927
19055	14166	Frank G. Matthiessen and L. R. Kagarise.....		Granted	

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Action	Date
19086	13948	Key System Transit Company.....	To reroute its Colusa Avenue motor bus line.....	Granted	Dec. 2, 1927
19091	14191	H. C. Venable and R. E. Robson.....	Former to sell to latter auto freight line between Los Angeles and Artesia and Norwalk and certain other points.....	Granted	Dec. 2, 1927
19094	14194	C. W. Gordon, administrator of estate of Mark W. Gordon.....	To sell to Hurb and T. W. Seena operating right for auto passenger and freight line between Fortuna and Bridgeville.....	Granted	Dec. 2, 1927
19095	14221	Sierra Van and Storage Company and L. R. Kagarise.....	Former to sell to latter operating right for auto truck line between Los Angeles and Pasadena.....	Granted	Dec. 2, 1927
19163	14280	Jennie H. Follows.....	To sell to A. L. Meier and J. E. Williamson, copartners, auto passenger and freight line between Azusa and certain points in the San Gabriel Canyon.....	Granted	Dec. 23, 1927
19170	14267	Emma D. Dunham and Southern Pacific Motor Transport Company.....	Former to sell to latter Dunham Stage Line operating between Napa and Santa Rosa and intermediate points.....	Granted	Dec. 23, 1927

TABLE D—GRADE CROSSINGS.

Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
18475	13510	City of Ojai (Southern Pacific Company).....	(Blanche Street.....	Granted	June 9, 1927
18485	13788	Southern Pacific Company (City of Los Angeles).....	Signal Street.....	Denied	June 9, 1927
18499	13836	The Western Pacific Railroad Company (City and County of San Francisco).....	Panama Street (Thenard Station).....	Granted	June 9, 1927
18500	13839	The Western Pacific Railroad Company (City and County of San Francisco).....	Mariposa Street.....	Granted	June 10, 1927
18503	13836	City of San Marino and City of San Gabriel (Southern Pacific Company).....	Mariposa and Caroline Streets.....	Granted	June 10, 1927
18506	13599	City of Beverly Hills (Pacific Electric Railway Company).....	St. Albans Road.....	Granted	June 14, 1927
18519	13848	Southern Pacific Company (City of Santa Clara).....	Beverly Boulevard.....	Granted	June 14, 1927
18536	13818	Southern Pacific Company (City of Richmond).....	Campbell Avenue and Bellomy Street.....	Granted	June 14, 1927
18541	13571	County of Los Angeles (Southern Pacific Company).....	Seaver Avenue, Twenty-third and Twenty-fourth Streets.....	Granted	June 21, 1927
18571	13866	Southern Pacific Company (City of Santa Clara).....	Slauson Avenue.....	Granted	June 22, 1927
18572	13887	Southern Pacific Company (City of San Jose).....	Brokaw Road.....	Granted	July 8, 1927
18584	13680	The Western Pacific Railroad Company (County of Alameda).....	Newhall Street.....	Granted	July 8, 1927
18590	13849	Southern Pacific Company (City and County of San Francisco).....	Decoto Station.....	Denied	July 8, 1927
18603	13802	The Western Pacific Railroad Company (City of Oakland and County of Alameda).....	Harrison Street.....	Granted	July 8, 1927
18604	13856	Southern Pacific Company (City of San Bruno and County of San Mateo).....	Third and Jefferson Streets.....	Granted	July 8, 1927
18620	13553	Southern Pacific Company (City of Newport, County of Orange).....	Herman Street and Atlantic Avenue.....	Granted	July 8, 1927
18621	13717	San Diego and Arizona Railway Company (City of Chula Vista).....	Twenty-fourth Street.....	Granted	July 13, 1927
18622	13756	Southern Pacific Company (City of Berkeley, County of Alameda).....	Third Avenue and K Street.....	Granted	July 13, 1927
18623	13794	Southern Pacific Company (City of Berkeley, County of Alameda).....	Parker Street at Fourth and Seventh Streets.....	Granted	July 13, 1927
18624	13809	Southern Pacific Company (City of Reedley, County of Fresno).....	Fourth Street.....	Granted	July 13, 1927
18626	13825	Southern Pacific Company (Hood, County of Sacramento).....	West Avenue, Seventh, Tenth, Eleventh and Thirteenth Streets and Dinuba Avenue.....	Granted	July 13, 1927
18627	13846	Southern Pacific Company (Aurant Station, County of Los Angeles).....	County Road.....	Granted	July 13, 1927
18628	13850	Santa Fe and Los Angeles Harbor Railway Company (Lawndale, County of Los Angeles).....	Miller Avenue.....	Granted	July 13, 1927
18629	13852	Southern Pacific Company (City of El Centro, County of Imperial).....	Center Street.....	Granted	July 13, 1927
18631	13893	The Western Pacific Railroad Company (City and County of San Francisco).....	State Street.....	Granted	July 13, 1927
18632	13895	Southern Pacific Company (Irvington, County of Alameda).....	DeHarro Street.....	Granted	July 13, 1927
18633	13896	Southern Pacific Company (Ivanhoe Station, County of Tulare).....	Mission Street (County Road No. 398).....	Granted	July 13, 1927
18641	13847	Southern Pacific Company (City of Sauger, County of Fresno).....	Main Street.....	Granted	July 13, 1927
18650	13938	Southern Pacific Company (City of Livingston, County of Merced).....	Pershing Avenue and Fifth, Seventh, Ninth and Eleventh Streets.....	Granted	July 13, 1927
			Seventh Street.....	Granted	July 19, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
18652	13926	Southern Pacific Company (City and County of San Francisco)	Harrison Street.....	Granted	July 21, 1927
18653	13927	The Atchison, Topeka and Santa Fe Railway Company (Town of Winton, County of Merced).....	Griffen Avenue.....	Granted	July 21, 1927
18654	13910	The Atchison, Topeka and Santa Fe Railway Company (City and County of San Francisco).....	Illinois Street and Twenty-third Street.....	Granted	July 21, 1927
18664	13876	The Atchison, Topeka and Santa Fe Railway Company (City of San Diego, County of San Diego).....	Eighth Street, Ninth Street and N Street.....	Granted	July 21, 1927
18678	13897	The Western Pacific Railroad Company (County of San Joaquin).....	Across two county roads, County of San Joaquin.....	Granted	Aug. 4, 1927
18706	13828	Board of Supervisors of San Diego County (The Atchison, Topeka and Santa Fe Railway Company).....	Crossing No. 2-E-12-8.....	Granted	Aug. 13, 1927
18707	13915	The Atchison, Topeka and Santa Fe Railway Company (City of Corona).....	Pearl and Sheridan Streets.....	Granted	Aug. 13, 1927
18708	13930	Southern Pacific Company (City of Reedley).....	Eighth Street.....	Granted	Aug. 13, 1927
18723	13936	County of Contra Costa (Southern Pacific Company).....	Vicinity of Pittsburg.....	Granted	Aug. 18, 1927
18724	13953	Southern Pacific Company (City and County of San Francisco).....	Beale Street.....	Granted	Aug. 18, 1927
18725	13959	Southern Pacific Company (County of Kern).....	Pomegranate Street.....	Granted	Aug. 18, 1927
18726	13993	Southern Pacific Company (County of Kern).....	Vicinity of Slater.....	Granted	Aug. 18, 1927
18735	13985	Southern Pacific Company (City and County of San Francisco).....	Selby and Tolland Streets.....	Granted	Aug. 18, 1927
18754	13998	Southern Pacific Company (County of Yolo).....	Vicinity of Davis.....	Granted	Aug. 31, 1927
18757	13967	Southern Pacific Company (City and County of San Francisco).....	Mendell Street.....	Granted	Sept. 2, 1927
18768	13968	The Western Pacific Railroad Company (City of Oakland).....	Adelino Street.....	Granted	Sept. 2, 1927
18780	14009	The Atchison, Topeka and Santa Fe Railway Company (City of Richmond).....	Eighth Street and Dock Street.....	Granted	Sept. 2, 1927
18761	14014	The Atchison, Topeka and Santa Fe Railway Company (City and County of San Francisco).....	Mississippi Street.....	Granted	Sept. 2, 1927
18770	13720	Alameda Belt Line (Southern Pacific Company and Key System Transit Company).....	Webster Street.....	Granted	Sept. 7, 1927
18771	14022	Southern Pacific Company (City of Pomona).....	Hobbs Avenue.....	Granted	Sept. 8, 1927
18772	13956	Southern Pacific Company (City of Sunnyvale).....	Hendy Avenue.....	Granted	Sept. 8, 1927
18777	13908	County of Stanislaus (Southern Pacific Company).....	Near Orcuttimbs Creek.....	Granted	Sept. 10, 1927
18778	14016	Pacific Electric Railway Company (City of Los Angeles).....	Exposition Boulevard.....	Granted	Sept. 10, 1927
18782	14021	Southern Pacific Company (County of San Mateo).....	Railroad Street, vicinity of Union Park.....	Granted	Sept. 10, 1927
18790	13887	County of Shasta (Southern Pacific Company).....	Vicinity of Anderson.....	Granted	Sept. 13, 1927
18803	13907	City of Lodi (Southern Pacific Company).....	California Street.....	Granted	Sept. 14, 1927
18804	13961	The Atchison, Topeka and Santa Fe Railway Company (County of Los Angeles).....	E Street at Santa Fe Springs.....	Granted	Sept. 14, 1927
18806	13986	Southern Pacific Company (City and County of San Francisco).....	Harrison Street.....	Granted	Sept. 14, 1927
18807	13995	Southern Pacific Company (County of Shasta).....	Vicinity of Castle Crag.....	Granted	Sept. 14, 1927

18909	14000	The Atchison, Topeka and Santa Fe Railway Company (City and County of San Francisco)	Twenty-fifth and Minnesota Streets	Granted	Sept. 14, 1927
18910	14030	Southern Pacific Company (City of Oakland)	First and Jefferson Streets	Granted	Sept. 14, 1927
18924	13982	Southern Pacific Company (City and County of San Francisco)	Harrison, Fifteenth, Eighteenth and Twentieth Streets	Granted	Sept. 20, 1927
18926	14062	Southern Pacific Company (City of San Jose)	Pleasant Street	Granted	Sept. 23, 1927
18933	13977	Los Angeles and Salt Lake Railroad Company (City of Pasadena)	Garfield Avenue	Granted	Sept. 27, 1927
18934	13987	Southern Pacific Company (City and County of San Francisco)	Rhode Island and Fifteenth Streets	Granted	Sept. 27, 1927
18935	14025	The Atchison, Topeka and Santa Fe Railway Company (City of San Bernardino)	I Street	Granted	Sept. 27, 1927
18936	14053	Southern Pacific Company (City of Watsonville)	Walker Street	Granted	Sept. 27, 1927
18941	13958	Southern Pacific Company (City of Pacific Grove)	Ocean Avenue and Dewey Avenue	Granted	Sept. 20, 1927
18945	13870	County of Los Angeles (Pacific Electric Railway Company)	Maiden Lane	Granted	Sept. 30, 1927
18947	13957	Southern Pacific Company (City of Lodi)	Lockeford and Main Streets	Granted	Sept. 30, 1927
18948	13976	Southern Pacific Company (Town of Susan City)	Davenport Road	Granted	Sept. 30, 1927
18949	14001	The Atchison, Topeka and Santa Fe Railway Company (City of Los Angeles)	Soto Street	Granted	Sept. 30, 1927
18950	14051	Southern Pacific Company (City of San Leandro)	Saunders Street	Granted	Sept. 30, 1927
18951	14056	Southern Pacific Company (City of Salinas)	Pajaro Street	Granted	Sept. 30, 1927
18953	14071	Southern Pacific Company (City of Oakland)	Fifth Avenue	Granted	Sept. 30, 1927
18978	13714	County of Orange (Southern Pacific Company)	Bay and Eighteenth Streets	Granted	Oct. 4, 1927
18983	14010	The Atchison, Topeka and Santa Fe Railway Company (City of Los Angeles)	Mill Street	Granted	Oct. 4, 1927
18985	14034	Pacific Electric Railway Company (City of Redlands)	San Bernardino Avenue	Granted	Oct. 4, 1927
18987	14052	The Atchison, Topeka and Santa Fe Railway Company (County of Madera)	Elm and Clinton Avenues	Granted	Oct. 4, 1927
18990	14103	The Atchison, Topeka and Santa Fe Railway Company (County of Tulare)	Near Strathmore	Granted	Oct. 4, 1927
18924	13561	City of Long Beach (Pacific Electric Railway Company)	Spring Street	Denied	Oct. 14, 1927
18929	13522	City of Santa Ana (Pacific Electric Railway Company)	Bishop Street, Grant Street and Harwood Place	Granted	Oct. 17, 1927
18933	14172	Southern Pacific Company (City of Oakland)	Forty-eighth Avenue	Granted	Oct. 25, 1927
18994	14081	The Western Pacific Railroad Company (City of Oakland)	Forty-third Avenue	Granted	Oct. 25, 1927
18995	14088	Southern Pacific Company (City of Berkeley)	Overland Avenue, Ashby Avenue, etc.	Granted	Oct. 25, 1927
18966	14101	Southern Pacific Company (City of Santa Cruz)	Chestnut Street	Granted	Oct. 25, 1927
18980	13706	City of Riverside (The Atchison, Topeka and Santa Fe Railway Company)	Central Avenue (viaduct)	Denied	Nov. 3, 1927
18986	13950	County of Glenn (Southern Pacific Company)	County road	Granted	Nov. 3, 1927
18987	14033	City of Oakland (Southern Pacific Company)	Birch Street	Granted	Nov. 3, 1927
18993	14112	County of Fresno (Southern Pacific Company)	County road (Hayes Avenue)	Granted	Nov. 3, 1927
18990	14123	The Atchison, Topeka and Santa Fe Railway Company (City of San Diego)	Maple Street	Granted	Nov. 3, 1927
19001	14131	The Western Pacific Railroad Company (City of San Leandro)	Martinez Street	Granted	Nov. 4, 1927
19017	14154	Southern Pacific Company (County of Tulare)	Vicinity of Tipton	Granted	Nov. 4, 1927
19021	14155	Southern Pacific Company (County of Imperial)	Vicinity of Ogilby	Granted	Nov. 7, 1927
19022	14156	Southern Pacific Company (County of Imperial)	Vicinity of Ruthven	Granted	Nov. 7, 1927
19031	13587	County of Santa Clara (Southern Pacific Company)	Bloomfield Avenue	Granted	Nov. 12, 1927
19038	14042	The Atchison, Topeka and Santa Fe Railway Company (City of Torrance)	Washington, Apple Avenues, etc.	Granted	Nov. 12, 1927
19039	14139	Southern Pacific Company (County of Monterey)	Vicinity of Gonzales	Granted	Nov. 12, 1927
19046	14078	California Highway Commission (Central California Traction Company)	Vicinity of Stockton	Granted	Nov. 14, 1927

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Dec. No.	App. No.	Applicant (and other parties)	Location	Action	Date
19048	14182	Southern Pacific Company (City of Berkeley)	Second Street	Granted	Nov. 14, 1927
19058	13984	Southern Pacific Company (County of Sutter)	Paseo Avenue, vicinity of Sunset Station	Granted	Nov. 30, 1927
19059	14169	The Atchison, Topeka and Santa Fe Railway Company (City of Claremont)	Oliver Street	Granted	Nov. 30, 1927
19068	13280	Southern Pacific Company (City of Marysville)	Fourteenth Street and portion of E Street	Granted	Dec. 2, 1927
19070	14109	The Atchison, Topeka and Santa Fe Railway Company (City of Los Angeles)	Willow Street	Granted	Dec. 2, 1927
19071	14114	The Atchison, Topeka and Santa Fe Railway Company (City of Los Angeles)	Holmes Avenue	Granted	Dec. 2, 1927
19073	14186	County of Marin (Mt. Tamalpais and Muir Woods Railway)	Near Mill Valley	Granted	Dec. 2, 1927
19074	14189	Southern Pacific Company (County of Riverside)	Vicinity of Indio	Granted	Dec. 2, 1927
19077	14160	Pacific Electric Railway Company (City of Los Angeles)	San Vicente Boulevard	Granted	Dec. 2, 1927
19111	13679	County of Madera (The Atchison, Topeka and Santa Fe Railway Company)	Public road	Granted	Dec. 10, 1927
19130	14240	Southern Pacific Company (City and County of San Francisco)	Armstrong Avenue and Newhall Street	Granted	Dec. 23, 1927
19136	14238	City of Culver City (Pacific Electric Railway Company)	Sawtelle Boulevard	Granted	Dec. 23, 1927
19137	14198	San Diego and Arizona Railway Company (City of San Diego)	Thirty-first Street at N Street	Granted	Dec. 23, 1927
19138	14130	City of Santa Monica (Pacific Electric Railway Company)	Broadway Street	Granted	Dec. 23, 1927
19140	14250	The Atchison, Topeka and Santa Fe Railway Company (City of San Bernardino)			
19148	14201	Southern Pacific Company (City of Vernon)	Rialto Avenue	Granted	Dec. 23, 1927
19149	14203	County of Los Angeles (Pacific Electric Railway Company)	Irving Avenue	Granted	Dec. 23, 1927
19180	14248	Southern Pacific Company (City and County of San Francisco)	Hooper Avenue	Granted	Dec. 23, 1927
			Harrison Street	Granted	Dec. 23, 1927

TABLE B—MISCELLANEOUS AND SUPPLEMENTAL ORDERS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
18486	11853	Fritzelle, Eales and Company.....	Revoking and annulling certificate to operate auto freight line between Cotati and Petaluma.....	June 9, 1927
18487	10148	Asbury Truck Company.....	Supplemental order authorizing auto truck service, on demand, superseding operative rights granted in Decision No. 18150.....	June 9, 1927
18488	13459	County of San Mateo.....	Supplemental order amending Decision No. 17898—grade crossing at Beresford.....	June 9, 1927
18489	11354	Los Angeles Gas and Electric Corporation.....	Petitions of Southern Counties Gas Company of California, Southern California Gas Company and Midway Gas Company for rehearing of Commission's Decision No. 17830, dismissed.....	June 9, 1927
18507	11379	Southern California Gas Company.....		
	11380	Midway Gas Company.....		
	C2186	Commission's investigation into rates charged for natural gas by Southern Counties Gas Company of California furnished to Los Angeles Gas and Electric Corporation.....		
		Key System Transit Company.....		
18507	13630		Granting permission to abandon certain lines in city of Oakland, and to construct double line track along Fourteenth Avenue between East Eighteenth Street and East Sixteenth Street and to reroute certain street car lines.....	June 14, 1927
18511	9689	Paul Cardinal.....	Supplemental order revoking and annulling certificate to operate auto freight line between Brawley and Westmoreland, Imperial County.....	June 14, 1927
18512	12841	R. S. Cassidy.....	Supplemental order granting permission to operate on call or demand service for transportation of passengers and property between Blairsden and Gold Lake Beach Resort, subject to certain conditions.....	June 14, 1927
18513	13580	The Sweetwater Water Corporation.....	Supplemental order authorizing execution of mortgage.....	June 14, 1927
18515	12557	Foothill Ditch Company and Lindsay-Strathmore Irrigation District.....	Petition for rehearing of Commission's Decision No. 18178 denied.....	June 14, 1927
18518	13758	Pacific Electric Railway Company.....	Granting authority to discontinue service and remove track on Broadway and Third Street in city of Santa Monica.....	June 14, 1927
18520	12836	California Highway Commission.....	Denying petition of Southern Pacific Company for rehearing on application of California Highway Commission for authority to construct new crossing of state highway under tracks of Southern Pacific Railroad at Mossdale, San Joaquin County, which the Commission recently authorized.....	June 14, 1927
18522	10661	Parlor Car Tours.....	Supplemental order authorizing issue and sale of \$14,300 of stock remaining unsold of an issue of \$50,000.....	June 14, 1927
18524	6084	Charles Prestop.....	Supplemental order revoking and annulling certificate granted in Decision No. 8131.....	June 16, 1927
18525	7804	Mario Marengo and Sam Kevorkian.....	Supplemental order revoking and annulling certificate granted in Decision No. 10527.....	June 20, 1927
18530	13759	Pacific Electric Railway.....	Granting authority to sell certain property along its Huntington Beach line in the city of Huntington Beach.....	June 20, 1927
18533	13581	Spring Valley Water Company.....	Granting rights of way for roadway purposes over certain of its operative properties over Crystal Springs water shed lands, San Mateo County.....	June 20, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
18537	13672	Sunset Railway Company	Granting authority to abandon and remove a team track and station building at Hazelton Station, Kern County	June 21, 1927
18539	13827	American Railway Express Company	Granting authority to abandon agency at Blue Canon, Placer County, and continue same as non-agency prepay station.	June 22, 1927
18540	12083	W. A. Kuntz and E. J. Kuntz.	Supplemental order revoking and annulling certificate granted in Decision No. 16392.	June 22, 1927
18554	13824	Southern Pacific Company.	Granting authority to abandon non-agency station of Scholes, Shasta County.	June 27, 1927
18555	13862	San Gabriel Valley Water Company and Everett Phipps Babcock and Claire Delano Babcock.		
18556	9295	C. W. Fulton and James T. McAllee.	Granting sale and conveyance of certain real property of former to the latter.	June 27, 1927
18557	10026	Bacon Service Corporation.	Supplemental order revoking and annulling certificate—Decision No. 12752.	June 27, 1927
18558	12177	R. G. Chase.	Supplemental order revoking and annulling certificate—Decision No. 13526.	June 27, 1927
18564	13781	Southern Pacific Company.	Granting authority to close agency at Blue Canon Station, Placer County, and continue same as non-agency.	June 27, 1927
18568	6287	Reedley Telephone Company	Fourth supplemental order authorizing delivery of \$3,000 of first mortgage 7 per cent bonds to trustees of General Grant Park Telephone Company in payment for properties of the latter.	June 28, 1927
18570	13805	(Pacific Gas and Electric Company Standard Gas and Electric Company. (The California-Oregon Power Company	Amending Decision No. 18567, making it effective July 5, 1927, instead of 20 days from date of original decision.	June 30, 1927
18575	13754	Spring Valley Water Company	Granting the county of Santa Clara a right of way over Calaveras water shed of Spring Valley Water Company.	July 5, 1927
18577	13785	Spring Valley Water Company	Granting the exchange of certain lands with Meyer Brothers.	July 8, 1927
18582	11582	City of Berkeley	Supplemental order amending Decision No. 15634—to eliminate requirement that uniformed police officer be stationed at Addison Street crossing.	July 8, 1927
18584	13680	The Western Pacific Railroad Company.	Denying permission to abandon and remove spur track near station of Decoto, Alameda County.	July 8, 1927
18591	7678	Peter J. Alberigi	Supplemental order revoking certificate granted in Decision No. 10304.	July 8, 1927
18592	13581	Spring Valley Water Company.	Supplemental order modifying Decision No. 18533—rights of way in San Mateo County.	July 8, 1927
18595	13806	Ysidro Medina.	Authorized to discontinue water service to consumers in Blocks 12 and 13, Lynwood Park Tract, Los Angeles County.	July 8, 1927
18597	13857	Great Western Power Company of California.	Approving agreement with San Francisco-Sacramento Railroad Company for transfer of rights of ways.	July 8, 1927
18598	13880	Laesem Electric Company	Preliminary order granting certificate to exercise franchise to be secured from the county of Plumas.	July 8, 1927
18602	6522	V. V. Anderson	Supplemental order dismissing order to show cause heretofore issued relative to auto stage service between Winters, Yolo County, and Monticello, Napa County.	July 8, 1927

18608	13502	Southern Pacific Company	Authorized to close agency in city of Alhambra, and change name of Shorb Station to Alhambra Station.	July 13, 1927
18610	13726	Ojai Power Company	Granting certificate to exercise rights granted by Ordinance No. 248, county of Ventura.	July 13, 1927
18613	13863	S. W. and M. R. Dodds	Authorized to transfer water system in city of Chowchilla to said city for sum of \$15,000.	July 13, 1927
18614	13821	McKinley Brothers, Inc.	Authorized to sell to California Telephone and Light Company certain electrical generating and distributing facilities at Middletown, Lake County.	July 13, 1927
18625	13815	The Atchison, Topeka and Santa Fe Railway Company	Authorized to abandon agency at station of Sharon, Merced County, and to continue same as prepay non-agency station.	July 13, 1927
18630	13872	Southern Pacific Company	Granting permission to abandon and remove wig-wag signal located at drill track crossing Main Street in city of El Centro.	July 13, 1927
18634	13899	Southern Pacific Company	Granting permission to abandon portion of Alcalde Branch, Fresno County.	July 13, 1927
18635	6496	The Western Pacific Railroad Company	First supplemental order vacating and setting aside Condition I of Decision No. 9469, re abandonment of Calhoun Station.	July 13, 1927
18637	13638	The Atchison, Topeka and Santa Fe Railway Company	First supplemental order amending Decision No. 18225—grade crossings, city of Oakland.	July 13, 1927
18638	13813	South End Warehouse Company	First supplemental order vacating authority to issue promissory note and to execute mortgage (Decision No. 18482).	July 13, 1927
18640	12747	The Atchison, Topeka and Santa Fe Railway Company	Revoking prior order and dismissing application—grade crossing, Mozart and Power Streets, city of Los Angeles.	July 13, 1927
18648	13916	Pacific Electric Railway Company	Granting authority to abandon agency at Coment Plant, Riverside County, and to continue same as non-agency station.	July 10, 1927
18649	13913	Los Angeles and Salt Lake Railroad Company	Authorized to abandon shelter station at Bartole, Los Angeles County, and to continue same as non-agency station.	July 10, 1927
18655	13171	Roseville Water Company	Fourth supplemental order authorizing use of proceeds from sale of bonds (Decision No. 17434).	July 19, 1927
18663	13792	San Francisco, Napa and Calistoga Railway	Authorized to sell to Andrew Shoveland parcel of land in city of Vallejo.	July 21, 1927
18665	13911	Southern Pacific Company	Granting permission to abandon and remove spur track at Mission Drive, San Gabriel, Los Angeles County.	July 21, 1927
18666	0094	San Diego Electric Railway Company	First supplemental order amending decision No. 12556—grade crossing, Imperial Avenue, city of San Diego.	July 21, 1927
18667	11592	Raymond Telephone Company	Supplemental order granting authority to publish and file rates in accordance with Decision No. 18543.	July 21, 1927
18668	12713	Sunland Rural Telephone Company	Second supplemental order authorizing use of proceeds from sale of stock (Decision No. 16572).	July 21, 1927
18669	13591	Baldwin Park Domestic Water Company	First supplemental order amending Decision No. 18601 so as to read Baldwin Park Domestic Water Corporation.	July 21, 1927
18670	C1819	Los Angeles and San Pedro Transportation Company vs. Richards Trucking and Warehouse Company	Second supplemental order dismissing complaint.	July 21, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
18674	12149	City of Berkeley.....	Revoking prior order and dismissing applications—grade crossings, Santa Fe Avenue (Decision No. 16739).....	July 21, 1927
18675	12444	City of Berkeley.....	First supplemental order modifying Decision No. 18575.....	July 27, 1927
18676	13754	Spring Valley Water Company.....	First supplemental order modifying Decision No. 18577—exchange of certain lands with Meyer Brothers.....	July 27, 1927
18677	13785	Spring Valley Water Company.....	Granting authority to install two automatic flagmen in center of Willow Street in vicinity of Watson Station, Los Angeles County.....	Aug. 4, 1927
18679	13931	Grangers Business Association.....	Approving franchise to construct wharf, and take tolls thereon, upon certain lands bordering southerly shore of Straits of Carquinez, Contra Costa County.....	Aug. 4, 1927
18685	5097	San Francisco-Richmond Ferry Company.....	Supplemental order granting authority to withdraw sum of \$13.50 obtained from sale of stock to pay state corporation tax for 1927.....	Aug. 4, 1927
18687	13340	Key System Transit Company.....	Fifth supplemental order authorizing use of proceeds from sale of bonds.....	Aug. 8, 1927
18688	13855	The Southern Sierras Power Company.....	First supplemental order amending Decision No. 18596—bond issue.....	Aug. 8, 1927
8438	18699	Thomas Halbert Williams.....	Supplemental order revoking certificate granted in Decision Nos. 11468 and 11761.....	Aug. 8, 1927
18700	8817	Thomas Halbert Williams.....	Supplemental order revoking certificate granted in Decision No. 12018.....	Aug. 8, 1927
18701	11571	W. B. Borders (Oakland Film Pickup).....	Supplemental order revoking certificate granted in Decision No. 16393—auto truck service for transporting motion picture films, etc., between San Francisco and Oakland, Alameda, Berkeley and Emeryville.....	Aug. 8, 1927
18702	13871	South Coast Gas Company.....	First supplemental order approving stipulation as per Decision No. 18594.....	Aug. 8, 1927
18709	7710	F. S. Frye.....	Supplemental order revoking certificate to operate auto stage service between Oroville and Palermo and Adelaide (Decision Nos. 10751 and 10824).....	Aug. 13, 1927
18710	7398	County of Tulare.....	Revoking prior order and dismissing application—grade crossing near Venice Hill.....	Aug. 13, 1927
18711	12430	County of Fresno.....	Revoking prior order and dismissing application—Mt. Whitney Avenue.....	Aug. 13, 1927
18712	13474	Union Pacific Stage Company.....	Supplemental order amending Decision No. 18337—motor bus service in Death Valley.....	Aug. 13, 1927
18713	12900	Southern Pacific Company.....	Revoking prior order and dismissing application—grade crossing in vicinity of Atwater, Merced County.....	Aug. 13, 1927
18714	12905	Southern Pacific Company.....	Revoking prior order and dismissing application—grade crossing, R Street, city of Sacramento.....	Aug. 13, 1927
18718	C2331	Rolph Transportation Company, Commission's investigation into practices, rules, etc., of.....	Revoking certificate to operate auto truck service for transportation of milk, cream and dairy products between certain districts and Ontario and Los Angeles, and for certain other service (Decision No. 15996).....	Aug. 16, 1927
18719	11746	The Atchison, Topeka and Santa Fe Railway Company.....	First supplemental order partially revoking and dismissing prior order (Decision No. 15580) grade crossings, N and Eighth Streets, city of San Diego.....	Aug. 16, 1927
18720	C2312	Albers Brothers Milling Company vs. Southern Pacific Company and Sunset Railway.....	Denying petition for rehearing by complainant.....	Aug. 16, 1927

18727	12941	Shafter Business Men's Association.....	First supplemental order amending Decision No. 16080—sale of water system, Shafter, Kern County.....	Aug. 18, 1927
18728	C1698	San Francisco-Sacramento Railroad Company.....	Extension of time until January 1, 1928, in which to comply with statutes governing overhead electric line construction (Chapters 499-600).....	Aug. 18, 1927
18729	C1698	Home Telephone Company of Covina.....	Extension of time granted until October 1, 1927, in which to comply with statutes governing overhead electric line construction (Chapters 499-600).....	Aug. 18, 1927
18742	12878	Southern Pacific Company.....	Revoking prior order and dismissing application—grade crossing in vicinity of Ivanhoe Station, Tulare County.....	Aug. 10, 1927
18748	13591	Baldwin Park Domestic Water Company and Baldwin Park County Water District.....	Second supplemental order amending Decision No. 15601—re transfer of system.....	Aug. 25, 1927
18750	12559 12510	Napa Valley Bus Company.....	Supplemental order approving agreement between San Francisco, Napa and Calistoga Railway and Napa Valley Bus Company for operation of auto buses.....	Aug. 30, 1927
18751	12593 13795	California Transit Company. San Francisco, Napa and Calistoga Railway. The Pacific Telephone and Telegraph Company.....	Dismissing petition filed by John Francis Noylan, Grove J. Fink and John D. Costello on July 26, 1927.....	Aug. 31, 1927
18752	9844	Venice Consumers Water Company.....	Third supplemental order authorizing use of proceeds from sale of bonds (Decision No. 13488).....	Aug. 31, 1927
18753	13055	Southern Pacific Company.....	Supplemental order modifying Decision No. 18467—grade crossing in vicinity of Rupert Station, Yuba County.....	Aug. 31, 1927
18762	11518 11784	United States, Inc.....	Supplemental order amending Decision No. 18689.....	Sept. 2, 1927
18763	13750	Pickwick Stages System and Motor Transit Company.....	Supplemental order amending Decision No. 18694.....	Sept. 2, 1927
18764	12487	Southern Pacific Company.....	Revoking prior order and dismissing application—grade crossing at Twelfth Street, city and county of San Francisco (Decision No. 16013).....	Sept. 2, 1927
18765	13993	Southern Pacific Company.....	Revoking prior order and dismissing application—grade crossing in vicinity of Slater, Kern County (Decision No. 18726).....	Sept. 2, 1927
18768	7884	Puente Truck and Transfer Company.....	Denying petition of Keystone Express, protestant, for rehearing of Decision No. 10752.....	Sept. 6, 1927
18779	10196	D. B. Maurice (West Coast Transit Company).....	Second supplemental order granting authority to extend service in city of Redondo Beach.....	Sept. 10, 1927
18780	C1804	Turlock Gas Company.....	Fourth supplemental order authorizing reduction in rates due to decrease in price of fuel oil.....	Sept. 10, 1927
18784	6212	T. K. Vance.....	Supplemental order granting authority to discontinue auto truck service between Los Angeles and Pomona.....	Sept. 13, 1927
18785	8078	A. R. Oswald.....	Supplemental order authorizing discontinuance of auto passenger and freight line between Priest Valley, Loeak and King City.....	Sept. 13, 1927
18801	C2306	V. L. Haynes and Fay Haynes vs. Jack Hiron.....	Ordering defendant to discontinue operation of auto truck service between Fresno and Lemoore, and Fresno and Hanford until he has obtained a certificate from the Railroad Commission.....	Sept. 14, 1927
18802	12492	Los Angeles and Salt Lake Railroad Company.....	Granting authority to discontinue maintenance of agent at station of Workman, Los Angeles County, and maintain same as non-agency station.....	Sept. 11, 1927
18805	13971	Pacific Electric Railway Company.....	Granting authority to abandon and remove freight platform at New York Avenue in Orange County.....	Sept. 11, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
18808	13999	The Atchison, Topeka and Santa Fe Railway Company and Fresno Interurban Railway Company.....	Authorizing former to purchase from latter certain trackage and right-of-way in vicinity of Hammond, Fresno County.....	Sept. 14, 1927
18811 18812	13611 6750	Salinas Valley Freight Line. The Atchison, Topeka and Santa Fe Railway Company.....	Order modifying Decision No. 18691—auto freight line operations.....	Sept. 14, 1927
18816	13860	Lassen Electric Company.....	Revoking prior order and dismissing application—grade crossing, Adeline Street, town of Emeryville, Alameda County.....	Sept. 14, 1927
18817	C2299	Los Angeles and Oxnard Daily Express and Los Angeles and Santa Barbara Motor Express Company, Inc. vs. Ojai, Ventura and Los Angeles Express.....	Supplemental order granting certificate authorizing exercise of franchise from Board of Supervisors of Plumas County to operate an electric utility in that county, superseding a preliminary order heretofore issued by the Commission.....	Sept. 19, 1927
18825	C2300 C2378	In the matter of suspension by Commission on its own motion of Rule 1-B, etc..... Commission's investigation into operations, etc., of Hodge Transportation System.....	Denying petition of Los Angeles and Oxnard Daily Express for rehearing.....	Sept. 19, 1927
18829	13333	City of Oakland.....	Order revoking and annulling certificates heretofore granted, as it is now operating only as a private contract carrier.....	Sept. 20, 1927
18830	C2274	Sacramento Box and Lumber Company, Setzer Box Company vs. Southern Pacific Company et al.....	First supplemental order modifying Decision No. 18063—grade crossing, Eighty-ninth Avenue.....	Sept. 23, 1927
18831	13342	San Juan Water Company.....	Supplemental order modifying previous orders relative to rates on lumber and box shook from Sacramento to points in California.....	Sept. 24, 1927
18832	13894	Southern Pacific Company.....	Granting certificate to operate water system in and in vicinity of town site of San Juan-by-the-Sea, Orange County.....	Sept. 27, 1927
18837	11414	Feather River Power Company.....	Granting authority to abandon non-agency station and three spur tracks at Grey-stone, Santa Clara County.....	Sept. 27, 1927
18842	3808 3809 5008	San Diego Electric Railway..... The Point Loma Railroad Company..... The Point Loma Railroad Company.....	Fourth supplemental order amending Commission's order dated June 27, 1927.....	Sept. 27, 1927
18846	5009 13942	The San Diego Electric Railway Company..... Pacific Electric Railway Company.....	Fourth supplemental order relative to depreciation fund.....	Sept. 29, 1927
			Granting authority to abandon passenger service on cutoff of its San Pedro via Gardena line between Dolanco and Ocean Avenue via Carson in the city of Los Angeles.....	Sept. 30, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

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18852	14084	American Railway Express Company.....	Granting authority to abandon agency at Talus, Inyo County.....	Sept. 30, 1927
18854	13826	Southern Counties Gas Company of California.....	Supplemental order granting certificate to exercise franchise rights to serve gas in city of Ojai (Decision No. 18846).....	Sept. 30, 1927
18870	13816	The Atchison, Topeka and Santa Fe Railway Company.....	Authorizing reduction of station at Waukena from an agency station to a prepay non-agency station.....	Oct. 4, 1927
18873	13761	California Telephone and Light Company.....	Supplemental order amending Decision No. 18408.....	Oct. 4, 1927
18875	12985	Town of Hayward.....	Ordering the Western Pacific Railroad Company to install an automatic flagman at C Street crossing in said city.....	Oct. 4, 1927
18886	14055	Victorville Motor Express (K. M. Stevenson and Paul Shafer).....	Authorized to execute contracts and issue notes.....	Oct. 4, 1927
18890	C2375	Aronas Grange No. 361 Patrons of Husbandry vs. Southern Pacific Railroad Company.....	Ordering defendant to install and maintain an automatic flagman at crossing known as "Thompson's Crossing" approximately 4½ miles east of city of Watsonville.....	Oct. 4, 1927
18894	14015	The Atchison, Topeka and Santa Fe Railway Company.....	Granting permission to reclassify station at Algozo in Kern County.....	Oct. 4, 1927
18896	14035	Pacific Electric Railway Company.....	Granting permission to abandon and remove waiting station at Washington Boulevard in Culver City, Los Angeles County.....	Oct. 4, 1927
18898	14091	Sunset Railway Company.....	Granting permission to abandon and remove spur track serving Standard Oil Company located at non-agency station of Vernette, Kern County.....	Oct. 4, 1927
18899	14092	Sunset Railway Company.....	Granting permission to abandon and remove spur track serving Honolulu Consolidated Oil Company at non-agency station of Vernette, Kern County.....	Oct. 4, 1927
18901	10892	Southern Pacific Company.....	Revoking prior order and dismissing application to construct grade crossing at Railroad Avenue, near Elmhurst Station, city of Oakland.....	Oct. 4, 1927
18904	13998	Southern Pacific Company.....	First supplemental order amending Decision No. 18754—grade crossing in vicinity of Davis, Yolo County.....	Oct. 7, 1927
18905	13962	A. A. Peters, trustee in bankruptcy of South Shore Port Company.....	First supplemental order approving stipulation (Decision No. 18821).....	Oct. 7, 1927
18910	14057	Southern Pacific Company.....	Granting permission to abandon non-agency station of Lake Vineyard, Los Angeles County.....	Oct. 8, 1927
18911	14089	Sunset Railway Company.....	Granting permission to abandon and remove 544-foot spur track serving Standard Oil Company in Kern County.....	Oct. 8, 1927
18912	14090	Sunset Railway Company.....	Granting permission to abandon non-agency station of Lio, Kern County.....	Oct. 8, 1927
18913	14106	Sunset Railway Company.....	Granting authority to abandon non-agency station of Copen, Kern County.....	Oct. 8, 1927
18914	8873	A. B. Forrest.....	Supplemental order revoking and annulling certificate to operate auto passenger, baggage and express service between Healdsburg and the Geysers (Decision No. 12220).....	Oct. 8, 1927
18915	12760	Nevada, California and Oregon Telegraph and Telephone Company.....	Supplemental order granting authority to publish, file and make effective certain rates for toll telephone and telegraph service.....	Oct. 8, 1927
18920	14066	Pacific Electric Railway Company.....	Granting authority to remove freight platform at Villa Station, Los Angeles County.....	Oct. 14, 1927
18921	14090	Pacific Electric Railway Company.....	Granting authority to abandon and remove waiting station at intersection of Eliza Street and Magnolia Avenue in city of Riverside.....	Oct. 14, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
18922	14115	Sunset Railway Company	Granting authority to abandon and remove two spur tracks serving Standard Oil Company of California at Kerto Station, Kern County	Oct. 14, 1927
18923	12859	Napa Valley Bus Company	Order denying petition of California Transit Company for rehearing	Oct. 14, 1927
18926	12510	California Transit Company	Authorized to erect a bridge across the Los Angeles County Flood Control Channel near Vinvale on its Santa Ana Branch	Oct. 15, 1927
18927	12593	San Francisco, Napa and Calistoga Railway	Authorized to abandon non-agency station of Elma, Inyo County	Oct. 15, 1927
18928	14061	Southern Pacific Company	Supplemental order authorizing Pacific Electric Railway Company, successor in interest to Pacific Electric Land Company, to reroute bus service between South Pasadena and Alhambra	Oct. 15, 1927
18930	14058	Southern Pacific Company	Granting authority to discontinue station stop at 106th Avenue on its Dutton Avenue line in city of Oakland	Oct. 17, 1927
18937	9001	Southern Pacific Company	Ordering defendant company to construct and maintain four shelter sheds in the city of Beverly Hills, Los Angeles County	Oct. 19, 1927
18940	13772	City of Beverly Hills vs. Pacific Electric Railway Company	Fifth supplemental order granting authority to execute a supplemental trust indenture	Oct. 19, 1927
18941	C2308	Tracy Gas Company	Sixth supplemental order authorizing use of proceeds from issue and sale of bonds (Decision No. 17759)	Oct. 19, 1927
18945	13295	Pacific Gas and Electric Company	Granting certificate to exercise rights and privileges granted by Ordinance No. 172, Board of Trustees of city of Red Bluff (gas)	Oct. 25, 1927
18946	13340	Pacific Gas and Electric Company	Granting certificate to exercise rights and privileges granted by Ordinance No. 171, Board of Trustees of city of Red Bluff (electric)	Oct. 25, 1927
18949	13944	Pacific Gas and Electric Company	Granting authority to abandon non-agency station of Standard Park in Los Angeles County	Oct. 25, 1927
18952	14074	The Atchison, Topeka and Santa Fe Railway Company	Supplemental order correcting error in Decision No. 13435	Oct. 25, 1927
18957	9807	Pickwick Stages System	Order denying petition for modification of opinion and order and for rehearing and reargument	Oct. 25, 1927
18967	C2230	Pacific States Butter, Egg, Cheese and Poultry Association vs. Southern Pacific Company et al.	Approving agreement relating to interchange facilities at Colton, San Bernardino County	Oct. 27, 1927
18969	14124	The Atchison, Topeka and Santa Fe Railway Company and Southern Pacific Company	Granting authority to abandon and remove team track serving S. Karpen and Company in Los Angeles County	Oct. 27, 1927
18970	14120	Southern Pacific Company	First supplemental order changing location of spur track in city of Pacific Grove (Decision No. 18841)	Oct. 27, 1927
18971	13958	Southern Pacific Company		Oct. 27, 1927

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13976	13305	Southern California Utilities, Inc.-----	First supplemental order amending effective date of schedule of rates fixed by Commission (Decision No. 18975)-----	Oct. 31, 1927
18978	14113	The California-Oregon Power Company-----	First supplemental order modifying Decision No. 18982 (debentures)-----	Nov. 1, 1927
18982	13892	Imperial Utilities Corporation-----	Authorizing transfer and sale of public utility properties to The California, Arizona and Santa Fe Railway Company operated in Bartow and vicinity, San Bernardino County-----	Nov. 3, 1927
18983	13947	Key System Transit Company-----	Authorized to discontinue Sixth Street motor bus line in city of Berkeley-----	Nov. 3, 1927
18989	14116	Southern Pacific Company-----	Authorized to move and relocate non-agency passenger station building at Sather in Alameda County-----	Nov. 3, 1927
18991	13909	The Atchison, Topeka and Santa Fe Railway-----	First supplemental order modifying Decision No. 18808-----	Nov. 3, 1927
18992	13881	Peninsular Railway Company-----	Authorizing certain exemptions from General Order No. 75-----	Nov. 3, 1927
18993	13882	Central California Traction Company-----	Authorizing certain exemptions from General Order No. 75-----	Nov. 3, 1927
19002	4239	Francis W. Hunt-----	Supplemental order revoking and annulling certificate to operate auto passenger and freight service between Petaluma and Valley Ford-----	Nov. 3, 1927
19008	13732	R. F. Booth and Leona B. Abrott-----	Authorized to increase rates for water service in town of Danville, Contra Costa County-----	Nov. 4, 1927
19010	13952	Anna L. Davidson, administratrix of estate of C. A. Davidson-----	Authorized to discontinue water service in town of Oro Grande, San Bernardino County-----	Nov. 4, 1927
19011	13963	R. A. Baker-----	Authorized to discontinue water service in vicinity of Titkeyville, Los Angeles County-----	Nov. 4, 1927
19018	13910	The Atchison, Topeka and Santa Fe Railway Company-----	First supplemental order modifying Decision No. 18654—grade crossing in city and county of San Francisco-----	Nov. 4, 1927
19024	14196	Market Street Railway Company-----	Authorized to abandon street railway service on Montgomery Street between Post and Washington Streets in the city and county of San Francisco-----	Nov. 4, 1927
19026	13591	Baldwin Park Domestic Water Corporation and Baldwin Park County Water District-----	Third supplemental order authorizing former to transfer to latter its water system-----	Nov. 7, 1927
19033	{ 13990 13991	Ojai Power Company-----	Authorized to exercise franchise rights for the distribution of water and electricity in the city of Ojai, Ventura County-----	Nov. 8, 1927
19041		The Western Pacific Railroad Company-----	Order revoking prior order and dismissing application—grade crossing Forty-third Avenue, city of Oakland (Decision No. 18064)-----	Nov. 12, 1927
19045	14023	Spring Valley Water Company and County of Alameda-----	Former authorized to grant to latter certain rights of way for highway purposes-----	Nov. 12, 1927
19047	14145	Los Angeles Railway Corporation-----	Authorized to sell certain parcel of property in city of Inglewood to Inglewood Park Cemetery Association-----	Nov. 14, 1927
19050	14142	Pacific Electric Railway Company and Southern Pacific Company-----	Former authorized to relocate freight station from Fifth and Market Streets to First and Main Streets, city of Riverside, and the latter authorized to abandon and remove tracks leading to said station-----	Nov. 14, 1927
19053	14197	The Atchison, Topeka and Santa Fe Railway Company-----	Authorized to discontinue certain trains operating between San Francisco, Oakland and Stockton, and change time schedule of certain trains-----	Nov. 19, 1927
19054	13340	Key System Transit Company-----	Seventh supplemental order authorizing use of proceeds from sale of bonds-----	Nov. 23, 1927 Nov. 26, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

Dec. No.	App. No.	Applicant	Nature of proceedings	Date
19056	14143	Southern Pacific Company	Authorized to sell certain parcel of land in city of Riverside to Julius Hess.	Nov. 30, 1927
19057	14174	George S. Montgomery and Merrill H. Berry	Former authorized to sell to latter Cazadero Water Works in Sonoma County	Nov. 30, 1927
19062	14082	The Atchison, Topeka and Santa Fe Railway Company	First supplemental order amending description of spur track crossing in Madera County (Decision No. 18897)	Nov. 30, 1927
19066	14113	The California-Oregon Power Company	Second supplemental order approving agreement covering issue of debentures.	Dec. 1, 1927
19069	13933	Key System Transit Company	Denying authority to discontinue service on its Cemetery line in the city of Oakland.	Dec. 2, 1927
19072	14125	The Atchison, Topeka and Santa Fe Railway Company and Los Angeles and Salt Lake Railroad Company	Granting authority to discontinue operation of Commonwealth Avenue interlocking plant near city of Fullerton, Orange County, between the hours of 6.00 p.m. and 8.00 a.m. daily.	Dec. 2, 1927
19075	14093	San Francisco, Napa and Calistoga Railway	Authorizing certain deviations from General Order No. 75 for protection of certain crossings in Napa, St. Helena and Calistoga.	Dec. 2, 1927
19078	14167	Sacramento Northern Railway	Authorizing certain deviations from General Order No. 75 at crossings in Sacramento, Woodland, Marysville, Yuba City, Colusa, Oroville, Chico and Suisun-Fairfield.	Dec. 2, 1927
19079	14185	Los Angeles and Salt Lake Railroad Company	Authorized to abandon and remove shelter shed at station of Collins, San Bernardino County.	Dec. 2, 1927
19080	10277	City of Beverly Hills	First supplemental order amending Decision No. 14355—grade crossing at Foothill Boulevard.	Dec. 2, 1927
19081	13837	Peerless Stages, Inc.	First supplemental order denying supplemental application to issue 8 per cent cumulative preferred stock.	Dec. 2, 1927
19082	13301	Southern Pacific Company	Order revoking prior order and dismissing application—grade crossing at Commercial Avenue in the city of El Centro, Imperial County.	Dec. 2, 1927
19084	C2389	Railroad Commission's investigation into rates on transportation of cement.	Denying petition for rehearing filed by Pacific Portland Cement Company and Henry Cowell Lime and Cement Company, protestants.	Dec. 2, 1927
19102	C2430	Railroad Commission vs. James Melver, Jr. (Truckee-Tahoe City Stage Line)	Revoking and annulling certificate to operate between Truckee and Tahoe City (Decisions Nos. 14224 and 14555)	Dec. 6, 1927
19103	14068	Southern Pacific Company	First supplemental order granting authority to relocate its station of Elna, Inyo County.	Dec. 6, 1927
19114	14141	Sacramento Valley and Eastern Railway	Granting authority to suspend service on its line of railway between Pitt and Bully Hill, Shasta County.	Dec. 10, 1927
19116	14099	Henry Goosen and Town of Fairfield	Former authorized to transfer to latter water system serving in and in the vicinity of Fairfield, Solano County, for \$25,000.	Dec. 10, 1927
19118	9435	California Highway Commission	First supplemental order amending Decision No. 13704—two subways near Apple-gate, Placer County.	Dec. 10, 1927
	9436	California Highway Commission		Dec. 10, 1927

CALIFORNIA RAILROAD COMMISSION DECISIONS.

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19127	14285	Key System Transit Company-----	Authorized to discontinue for period of 90 days street railway service over so-called "Rockridge" line in city of Oakland, and to substitute motor bus service-----	Dec. 22, 1927
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DIGEST OF DECISIONS
CALIFORNIA RAILROAD COMMISSION

Volumes 29 and 30

March 28 to December 23, 1927

This digest is supplementary to the volume "Digest of Decisions of the California Railroad Commission," which included all reported decisions rendered prior to March 28, 1927, and covers subsequent decisions up to and including the last reported decision in Volume 30.

ACCIDENTS

1. Automotive stage companies ordered to give telegraphic or telephonic advice to the Commission of accidents where death or serious injury occurs, and to make

monthly reports covering any and all classes of accidents. (General Order No. 81.) *Re Auto Accidents*, 30 C. R. C. 863. *See, also*, Reports.

ACCOUNTING

I. IN GENERAL.

II. ACCOUNTS TO WHICH PARTICULAR ITEMS ARE CHARGEABLE.

I. IN GENERAL

1. A purchasing utility was required to file with the Commission for approval, a copy of the entries by which it recorded on its books of account the purchase of the properties authorized to be transferred. *California Transportation Co.*, 29 C. R. C. 655, 659.

2. Upon the granting of authorization to transfer a utility, the purchasing utility should submit to the Commission for approval, its proposed book entries to record the final distribution of all expenditures in connection with the transaction. *A. Sorensen*, 30 C. R. C. 101, 102.

II. ACCOUNTS TO WHICH PARTICULAR ITEMS ARE CHARGEABLE

1. Interest fines paid for violation of the traffic laws, loss by fire and loss on account of bad checks are not properly chargeable to operating expenses under

the Commission's accounting system. *Imperial Valley-Los Angeles Express*, 29 C. R. C. 579, 580.

2. The Commission does not look with favor upon a utility charging its deficit to its reserve for accrued depreciation and reducing that account. A reversing entry should be made charging the surplus account with the deficit and restoring the reserve to its former credit balance. *Portola Water Co.*, 30 C. R. C. 302, 306.

3. Donations and surplus as a result of a revaluation are not proper credits to unappropriated surplus, as the Commission has held (*Bell Water Co.*, 25 C. R. C. 858, 859) that neither donations nor an increase in the asset accounts due to a revaluation of properties results in surplus profits available for dividends. *La Habra D. W. Co.*, 30 C. R. C. 505, 507.

4. If a utility elects to pay bonds before maturity and pays a premium on the bonds, such premium must be charged to surplus. *Monrovia Tel. & Tel. Co.*, 30 C. R. C. 735, 737.

APPORTIONMENT

1. In apportioning operating expenses between city and county traction lines, the Commission's engineers used a formula under which the charges to the two services were distributed according to the units with which they were directly affected, maintenance of equip-

ment being apportioned according to the number of car miles operated, while track maintenance was divided according to the number of track miles maintained. *Fresno Traction Co.*, 30 C. R. C. 216, 218.

AUTOMOTIVE TRANSPORTATION

- I. JURISDICTION, POWERS AND DUTIES OF COMMISSION.
 1. Interstate operation.
- II. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY.
 1. In general.
 2. Serving of intermediate points.
 3. Substitution for rail service.
- III. WHAT CONSTITUTES OPERATION AS COMMON CARRIER.
 1. For hire operation.
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- IV. TRANSFER OF OPERATIVE RIGHTS.
- V. EXPANSION OR EXTENSION OF OPERATIVE RIGHTS.
 1. Necessity of authorization.
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- VI. LEASE OF EQUIPMENT.
- VII. THROUGH SERVICE.
- VIII. SUSPENSION AND REVOCATION OF OPERATIVE RIGHTS.
- IX. SAFETY.
- X. UNLAWFUL OPERATION.

See, also, Certificates.

I. JURISDICTION, POWERS AND DUTIES OF COMMISSION

1. Interstate operation

1. The Commission has no jurisdiction over operations exclusively of an interstate character except as to reasonable restrictions upon the use of the highways in this state with respect to safety upon and the conservation of the same. (27 C. R. C. 846; *Duke Cartage Case*, 268 U. S. 570; *Buck v. Kuykendall*, 267 U. S. 307; *Bush & Sons v. Malloy*, 267 U. S. 317.) The principles enunciated in 27 C. R. C. 846, with respect to interstate commerce apply equally as to commerce with foreign nations. Under the provisions of Chapter 254, Stats. 1925, page 433, auto carriers engaged in foreign commerce will be required to comply with such rules and regulations as the Commission, under such authority, has established or shall establish. *Woollet v. Compania de Transportes de la Baja California*, 29 C. R. C. 669, 671.

2. As to the substitution of bus service for interstate passengers upon the abandonment of rail service no certificate

is necessary, this involving an interstate operation. *L. A. and S. L. R. Co.*, 30 C. R. C. 857.

II. CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

1. In general

1. In authorizing the operation of a stub automotive passenger service to a year-round resort by an existing transportation company, and the transfer to such company of other operative rights, the Commission is not granting a separate operative right to such resort, but is simply authorizing a service to be performed under the consolidated operative rights authorized to be transferred. *G. E. Shelby*, 30 C. R. C. 728, 729.

2. Authorization to operate auto stage service between existing termini but over another route for the major portion of the distance through a territory, the residents of which have not demanded such service, will not be granted where there has been no showing that present service is inadequate or that convenience and necessity demand the additional ser-

vice. *Fred Sutherland*, 30 C. R. C. 793, 796.

3. A certificate for auto stage operation was granted with the understanding that, applicant pioneering a field not occupied, the proposed service may require readjustments from time to time to make it fit with the express public need. *T. R. Carpenter*, 30 C. R. C. 871, 874.

2. Serving of intermediate points

1. An automotive transportation company can not extend service to points other than those named in its certificate by the mere filing of rates to such points. An unauthorized service thus established will be ordered discontinued and rates therefor canceled. *Auto Transit Co. v. Pickwick Stages*, 30 C. R. C. 32, 36, citing *Motor Transit Co.*, 24 C. R. C. 807. See also, *Los Angeles & Southern Pacific Trans. Co. v. Richards T. & W. Co.*, 30 C. R. C. 49, 53.

2. An automotive carrier authorized to operate between specified termini and intermediate points has no legal right to accept tonnage to or from a point not directly intermediate between such termini. *L. A.-Oxnard Daily Express v. Ojai V. L. A. Express*, 30 C. R. C. 143, 147.

3. The Commission might authorize auto stage operation between present authorized termini but largely over a new route, without the privilege of serving any intermediate points on such new route, where residents along that route have not demanded such service, but rights of such a nature should not be granted except where unavoidable. *Fred Sutherland*, 30 C. R. C. 793, 796.

3. Substitution for rail service

1. Much greater economy is possible by the utilizing of existing service of an auto stage company under a system of joint rates, rather than authorizing a subsidiary motor bus company to operate upon the abandonment of service of a parent rail carrier. Burdening the highways with an additional stage line to transport a negligible amount of passengers finds no justification. *Los Angeles & Salt Lake R. Co.*, 30 C. R. C. 857, 858.

2. "While the effecting of economies in rail operation is an end to be desired and encouraged, the effecting of an economy by the substitution of motor bus service is not in itself the equivalent of public convenience and necessity required to exist in order that certification

may be allowed." *Los Angeles & Salt Lake R. Co.*, 30 C. R. C. 857, 859.

III. WHAT CONSTITUTES OPERATION AS COMMON CARRIER

1. For hire operation

1. The volume of business handled between two points, between which defendant had not operated regularly but only as directed by his patrons, was held to have been sufficiently frequent to bring the operation under the jurisdiction of the Commission. *Haynes v. MacFarlane*, 29 C. R. C. 605, 608.

2. A certificate to haul specific commodities by auto truck on demand over specified routes was granted where such operations had been conducted for some years, was increasing in volume, and by reason of the great number of trips being made over regular routes and between fixed termini, came clearly within the statutory provisions requiring a certificate for its continuance, applicant having sought to place its operations under the Commission's regulatory authority at a time when it was doubtful if a certificate was required for such operation. *Asbury Truck Co.*, 30 C. R. C. 710, 713.

2. Sight-seeing service

1. During the 1927 session of the legislature, section 24 of the Public Utilities Act was adopted, defining a transportation company so as to include sight-seeing operators, and also section 50½ (effective July 29, 1927) requiring such operators to obtain a certificate of public convenience and necessity prior to rendering such service. *Motor Transit Co.*, 30 C. R. C. 278, 279.

2. Defendant, not coming within the provisions of section 50½ of the Public Utilities Act and not possessing a certificate, ordered to cease and desist from conducting sight-seeing operations as a common carrier. *Golden State A. T. Corp. v. Tatum*, 30 C. R. C. 741, 742.

3. Contract carriers

1. As the Commission has jurisdiction only over common carriers (operating between fixed termini or over a regular route), and not over private carriers, in view of the failure of the complainant to show any service of a common carrier nature performed by defendant, it must

be found that the operations of such defendant are those of a private carrier, over which the Commission has no jurisdiction. *Anderson v. United Parcel Service*, 29 C. R. C. 531, 533.

2. A corporation established and maintained solely for the purpose of performing package delivery service for four particular stores, deliveries being made wherever required to be made, is not performing a common carrier service subject to the jurisdiction of the Commission, although actually making deliveries in territory served by complainant as a common carrier. *Anderson v. United Parcel Service*, 29 C. R. C. 531, 533.

IV. TRANSFER OF OPERATIVE RIGHTS

1. As an automotive operative right is indivisible, after the granting of an application to transfer such a right the parties can not, by tariff filings, carry out the terms of an agreement not set forth in the application whereby the vendor company will continue transporting freight, and the vendee company will confine its operations to the transportation of passengers and express. *Bacon Service Corp.*, 30 C. R. C. 722, 723.

V. EXPANSION OR EXTENSION OF OPERATIVE RIGHTS

1. Necessity of authorization

1. An automotive transportation company can not extend service to points other than those named in its certificate by the mere filing of rates to such points. An unauthorized service thus established will be ordered discontinued and rates therefor canceled. *Auto Transit Co. v. Pickwick Stages*, 30 C. R. C. 32, 36, citing *Motor Transit Co.*, 24 C. R. C. 807. See also, *Los Angeles & Southern Pacific Trans. Co. v. Richards T. & W. Co.*, 30 C. R. C. 49, 53.

2. No automotive transportation company may enlarge or expand operative rights beyond those existing as of May 1, 1917, or subsequently granted by the Commission, unless a certificate therefor has been issued following application and an affirmative showing. (*Watson v. White Bus Line*, 20 C. R. C. 18, Sustained *Motor Transit Co. v. R. R. Com.*, 189 Cal. 573.) *San Francisco, Napa & Calistoga Ry. v. Western Motor Transport Co.*, 30 C. R. C. 816.

2. By transfer

1. Approval of the transfer of operative rights is not to be construed as authority for the linking up or merging or consolidation of the rights transferred with operative rights now owned by the vendee, nor is it to be construed as authority for the elimination of any of the restrictions contained in said operating rights. *H. C. Venable*, Decision 19091, Application 14191.

VI. LEASE OF EQUIPMENT

1. Where drivers have not been employed on the basis of bearing "the relation of an employee to the transportation company by whom such operator or driver is engaged," the so-called leasing of equipment has not been in accordance with the provisions of General Order 67. *United Parcel Service v. Inter-City Parcel Service*, 29 C. R. C. 595, 600.

2. Any control of operation over the routes of any carriers by operation of leased cars or the employment of drivers thereon, by a defendant which neither owns nor controls any certificated operative rights, is in violation of Chapter 213, Stats. of 1917 as amended, and of the subsequent regulations of the Commission regarding the leasing of equipment. Violation of the Commission's regulations is also made by any carriers who have participated in the car leasing arrangement and have permitted defendant to direct operation of cars over their respective lines. *United Parcel Service v. Inter-City Parcel Service*, 29 C. R. C. 595, 600.

3. It is not proper to urge that if the actual operation of cars over the authorized route of a defendant carrier was delegated to defendant that it was still under the control of the authorized carrier through an agency relation when the contract or agreement, introduced in evidence, contains an express provision "that neither company shall be considered as the agent of the other, nor shall either company be considered as the partner of the other." *United Parcel Service v. Inter-City Parcel Service*, 29 C. R. C. 595, 601.

VII. THROUGH SERVICE

1. The public being entitled to a choice of service when the demand is large enough, the larger question of convenience to the public in providing direct and rapid through transportation to distant points was held to outweigh protes-

tant's objections to the establishment of through service. *United Stages*, 30 C. R. C. 252, 255.

VIII. SUSPENSION AND REVOCATION OF OPERATIVE RIGHTS

1. An operator of auto stage service having discontinued and abandoned the operation thereof without securing the authorization of the Commission, the operative rights were revoked and annulled. *Re Duggan*, 30 C. R. C. 886, 888.

2. Suspension of operation without the knowledge and approval of the Commission will be considered a relinquishment of any operative right heretofore granted. *Coulter v. Anderson*, 30 C. R. C. 891, 892.

IX. SAFETY

1. An auto stage operator must adhere strictly to the rules of the Commis-

sion in regard to safety devices and other regulations, such as the carrying of fire extinguishers on equipment, indemnity insurance, etc. *T. R. Carpenter*, 30 C. R. C. 871, 875.

X. UNLAWFUL OPERATION

1. An automotive transportation company can not extend service to points other than those named in its certificate by the mere filing of rates to such points. An unauthorized service thus established will be ordered discontinued and rates therefor canceled. *Auto Transit Co. v. Pickwick Stages*, 30 C. R. C. 32, 36, citing *Motor Transit Co.*, 24 C. R. C. 807. See also, *Los Angeles & Southern Pacific Trans. Co. v. Richards T. & W. Co.*, 30 C. R. C. 49, 53.

2. Operations conducted between fixed termini for compensation, without authority obtained from the Commission, is in violation of Chapter 213, Statutes of 1917, as amended. *California Transit Co. v. Scott*, 30 C. R. C. 249, 251.

BAGGAGE

1. A specific offer to transport by service cars to any point or on any route when an accumulation of five hundred pounds of baggage was on hand which could not be carried on the passenger stages of applicant, would not be in the

public interest in that it would require a material increase in the truck equipment, far beyond what may be necessary in the way of service cars to transport applicant's own supplies and repair parts. *Motor Transit Co.*, 30 C. R. C. 312, 328.

CERTIFICATES OF PUBLIC CONVENIENCE AND NECESSITY

I. IN GENERAL.

1. Preference among applicants.
2. Necessity of obtaining.

II. GROUNDS FOR GRANTING OR REFUSING.

1. In general.
2. Conditions precedent to issuance.
 - a. In general.
 - b. Possession of local permit or franchise.
 - c. Possibility of success.

III. NECESSITY.

1. What constitutes.
2. Operation prior to regulation.

IV. SUSPENSION AND REVOCATION.

See, also, Automotive Transportation.

I. IN GENERAL

1. Preference among applicants

1. As between conflicting applicants for a certificate, a motor transport com-

pany and subsidiary of a rail carrier, being able to give more suitable and permanent service, was granted a certificate rather than an individual, where the rail carrier proposed to abandon service

over the route in question. *C. Balish*, 30 C. R. C. 854, 855.

2. Necessity of obtaining

1. An automotive transportation company can not extend service to points other than those named in its certificate by the mere filing of rates to such points. An unauthorized service thus established will be ordered discontinued and rates therefor canceled. *Auto Transit Co. v. Pickwick Stages*, 30 C. R. C. 32, 36, citing *Motor Transit Co.*, 24 C. R. C. 807. See, also, *Los Angeles & Southern Pacific Trans. Co. v. Richards T. & W. Co.*, 30 C. R. C. 49, 53.

2. Although defendant has never applied for a certificate to operate a water system, where it was in fact declared to be a public utility by formal order of the Commission, was directed to file rates, rules and regulations and the order has been fully complied with, it is not necessary that the defendant apply for any certificate to cover its existing operations. Under such circumstances the Commission would not be warranted in issuing an order designed to restrain defendant from further activities of a public utility nature in the territory served. *Ocean H. L. W. Co. v. Suburban Mutual W. Co.*, 30 C. R. C. 222, 226.

3. During the 1927 session of the legislature, section 24 of the Public Utilities Act was adopted, defining transportation companies so as to include sight-seeing operators and also section 504 (effective July 29, 1927) requiring such operators to obtain a certificate of public convenience and necessity prior to rendering such service. *Motor Transit Co.*, 30 C. R. C. 278, 279.

II. GROUNDS FOR GRANTING OR REFUSING

1. In general

1. Upon the taking over by a private company of a gas system theretofore legally constructed and operated by a municipality, as, during the necessary lapse of time prior to the securing of a franchise and authority from the Commission to exercise such franchise, the system must of necessity continue to function, a certificate will not be denied on the ground that the company was violating the law by carrying on the business. *Pacific Gas and Electric Co.*, 30 C. R. C. 552, 553.

2. While proposed service of applicant to certain points on a highway would

afford a convenience to residents so located, where the volume of traffic so originating would not produce sufficient revenue to justify the expense of operation unless the traffic to and from points already adequately served by rail lines was to be included, the application will be denied. *C. C. Cochran*, 30 C. R. C. 895, 899.

2. Conditions precedent to issuance

a. In general

1. The Commission, before granting a certificate of convenience and necessity to take, operate under, and exercise all rights and privileges and assume all burdens and obligations under various franchises and contracts proposed to be acquired, should be furnished with a statement showing the extent to which the several companies or the grantees of the franchises have operated under each of said franchises, and that public convenience and necessity require the granting of the certificate requested. *Midway Gas Co.*, 30 C. R. C. 466, 473.

b. Possession of local permit or franchise

1. When electric transmission and distribution lines have been constructed under a permit not a franchise obtained from a county board of supervisors, the corporation should obtain a franchise from such board to use the highways and other public places in the conduct of its business. Pending acquisition of such franchise, permission was granted the corporation to complete and to continue to operate an electric light plant. *Smith River Power Company*, 30 C. R. C. 379, 380.

c. Possibility of success

1. The Commission should not authorize imprudent operations, no matter how alluring they may appear to applicants. *Fred Sutherland*, 30 C. R. C. 281, 290.

III. NECESSITY

1. What constitutes

2. Operation prior to regulation

1. An automotive transportation company operating in good faith as a com-

mon carrier between specified termini on the effective date of Chapter 213, Statutes 1917, has thereby obtained a right to continue such operations after the effective date of the act without certification from the Commission. *J. B. Peckham Co.*, 30 C. R. C. 851, 853.

IV. SUSPENSION AND REVOCATION

1. Upon abandonment of service, automotive operative rights will be revoked. *W. H. McGann*, 30 C. R. C. 784, 785.

CLEARANCES

1. Carrier directed to cease operation over a spur track until all impaired side clearances had been corrected to conform to standards prescribed in General Order No. 26-C, see *Western Pacific R. Co.*, 30 C. R. C. 241, 243.

2. General Order No. 26-C not providing any special clearance exemptions for icing platforms, special clearances therefor should be taken care of by formal proceedings. *Southern Pacific Co.*, 30 C. R. C. 859, 860.

COMMISSION

1. When a defendant street railway utility has not dedicated its properties to service in a particular district of a city either by its acceptance of a city ordinance or by any other act, the Commission has no jurisdiction to direct defendant to make the desired extension. (*Hollywood C. of C. v. Railroad Commission*, 192 Cal. 307.) The Commission can not determine the question whether the city possesses a cause of action to compel such extension in a court of law as a private contractual right. *Fresno v. Fresno Traction Co.*, 29 C. R. C. 592, 594.

2. While a state commission has no authority under the provisions of section 208 (a) of the Transportation Act to award reparation on shipments moving during the Federal Guaranty period, operative March 1 to August 31, 1920, (*N. Y. Central R. Co. v. N. Y. P. Co.*, 271 U. S. 124; 28 C. R. C. 663), and the Interstate Commerce Commission having held that " * * * the only order that we can lawfully make as to such shipments is one of a permissive character" (122 I. C. C. 443, 448), an award of reparation was made subject to the approval of the Interstate Commerce Commission under said section 208 (a). *Union Oil Co. v. S. P. Co.*, 30 C. R. C. 220, 221; *Union Oil Co. v. S. P. Co.*, 30 C. R. C. 226, 228.

3. The Commission has no jurisdiction over operations exclusively of an

interstate character except as to reasonable restrictions upon the use of the highways in this state with respect to safety upon and the conservation of the same. (27 C. R. C. 846; *Duke Cartage Case*, 268 U. S. 570; *Buck v. Kuykendall*, 267 U. S. 307; *Bush & Sons v. Malloy*, 267 U. S. 317.) The principles enunciated in 27 C. R. C. 846 with respect to interstate commerce apply equally as to commerce with foreign nations. Under the provisions of Chapter 254, Statutes 1925, page 433, auto carriers engaged in foreign commerce will be required to comply with such rules and regulations as the Commission, under such authority has established or shall establish. *Woollet v. Compania de Transportes de la Baja California*, 29 C. R. C. 667, 671.

4. The Commission has no jurisdiction with reference to damages to a passenger car of a railway by an unloading crane of complainant for reparation, nor as to expenses incurred because of delays in placing cars. *Loeb v. Pacific Electric Ry. Co.*, 30 C. R. C. 489, 490.

5. The Commission is not empowered to render an interpretative decision as to certain terms of a contract heretofore passed upon by the Commission between complainant and defendant. The courts form the proper forum for such determinations as the significance of water right and similar provisions in such contracts. *El Dorado W. Co. v. Western States G. & E. Co.*, 29 C. R. C. 565, 566.

CONSOLIDATION, MERGER AND SALE

I. IN GENERAL.

II. JURISDICTION, POWERS AND DUTIES OF COMMISSION.

1. In general.
2. Necessity of authorization.
3. Vessels.

III. GROUNDS FOR ALLOWING OR DENYING.

IV. CONDITIONS UPON WHICH AUTHORIZATION GRANTED.

I. IN GENERAL

1. It is not customary for the Commission to approve construction contracts. *South Coast Gas Co.*, 30 C. R. C. 163, 165.

2. If a vendee desires to pay \$150,000 for stock of a company whose balance sheet indicates a net worth of some \$50,000, the difference should be paid out of the vendee's surplus. If stockholders desire to make such a contribution to the corporation, that is their concern, but the public patronizing the utility should not now or in the future be called upon to pay such amount or interest upon it, directly or indirectly. *Peerless Stages*, 30 C. R. C. 346, 350.

3. A vendee of a carrier by water will obtain no greater right than that possessed by the vendor if it acquires the operative right, and charges made for any service rendered by virtue of having acquired such operative right must, until a change is authorized by the Commission, be at the rates which the vendor has on file. *Erikson Navigation Co.*, 30 C. R. C. 406, 408.

II. JURISDICTION, POWERS AND DUTIES OF COMMISSION

1. In general

1. Although all of the properties of the vendor company were located within the State of Oregon, applicant having elected to file application with this Commission, authorization was granted to transfer the properties. *California Oregon Power Co.*, 30 C. R. C. 2.

2. In an application to transfer properties and issue securities therefor, the Commission is not called upon to deter-

mine to what extent contracts providing for the delivery of water at specified rates to the utility, or contracts creating an obligation on the utility to deliver water to others at a specified price, are subject to jurisdiction of the Commission, or whether the value assigned to such water rights should be modified. *Pacific Water Co.*, 30 C. R. C. 185, 190.

2. Necessity of authorization

1. Under section 51(a) of the Public Utilities Act, no electrical or water corporation may merge or consolidate its plant or system or franchises or permit, or any parts thereof, with any other public utility without first having secured from the Commission an order authorizing it to do so. *California Oregon Power Co.*, 30 C. R. C. 2.

2. Public utility properties which the owners have agreed to sell can not be sold without permission of the Commission. If an agreement to sell has already been executed it is non-operative until authorization is secured. *Erikson Navigation Co.*, 30 C. R. C. 406, 408.

3. Purported transfers of property devoted to public service are void when not authorized by the Commission. *Marin L. & S. Co.*, 30 C. R. C. 496, 503.

4. As section 50(d) of the Public Utilities Act does not confer authority to transfer operative rights, a new certificate of convenience and necessity is required under the provisions of that statute. *E. Miller*, 30 C. R. C. 293, 294.

III. GROUNDS FOR ALLOWING OR DENYING

1. Authorization to abandon service and to transfer a distribution system will be granted, notwithstanding protests

made on the ground that the water supply of the purchasing company, being diverted from a stream, is subject to possible contamination and has an unpleasant odor and taste, where tests have shown the water to be free from contamination and harmful bacteria, the supply is chlorinated, and particularly when the vendor utility is operating at a loss. *John Rentz*, 30 C. R. C. 598, 600.

2. Where the right of an irrigation district to divert or use any of the water from certain rivers or any of their branches or tributaries, is the subject of pending litigation, it would not be in keeping with public policy and not to the best interests of the present consumers of a ditch company and the public generally, to authorize the transfer of such utility to interests wholly beyond the jurisdiction and control of the Commission, when such interests have shown no present unquestioned ability to use the existing ditch system and facilities for the conveyance of water to the lands situate within the boundaries of the irrigation district. *Foothill Ditch Co.*, 29 C. R. C. 610, 618.

IV. CONDITIONS UPON WHICH AUTHORIZATION GRANTED

1. Upon the granting of authorization to transfer a utility, the purchasing utility should submit to the Commission for approval its proposed book entries to record the final distribution of all expenditures in connection with the transaction. *A. Sorensen*, 30 C. R. C. 101, 102.

2. In authorizing the transfer of an automotive transportation company the vendee was required to file with the Commission a definite and unqualified waiver of any right to claim value for the operative right transferred, either directly or indirectly, as an element of good will, going concern value or other intangible value. *Peerless Stages*, 30 C. R. C. 346, 350.

3. A purchasing utility was required to file with the Commission for approval, a copy of the entries by which it recorded on its books of account the purchase of the properties authorized to be transferred. *California Transportation Co.*, 29 C. R. C. 655, 659.

CONSTITUTIONAL LAW

1. The Commission has no jurisdiction over operations exclusively of an interstate character except as to reasonable restrictions upon the use of the highways in this state with respect to safety upon and the conservation of the same. (27 C. R. C. 846; *Duke Cartage Case*, 268 U. S. 570; *Buck v. Kuykendall*, 267 U. S. 307; *Bush & Sons v. Malloy*, 267 U. S. 317.) The principles enunciated in

27 C. R. C. 846 with respect to interstate commerce apply equally as to commerce with foreign nations. Under the provisions of Chapter 254, Stats. 1925, page 433, auto carriers engaged in foreign commerce will be required to comply with such rules and regulations as the Commission, under such authority has established or shall establish. *Woollet v. Compania de Transportes de la Baja California*, 29 C. R. C. 669, 671.

CONSTRUCTION, OPERATION AND MAINTENANCE

1. The Commission refused to approve a proposed contract for the construction of a gas system or to authorize the expenditure of any stock or bond proceeds

to pay for such a plant built of material other than that specified in the franchise. *Tracy Gas Company*, 30 C. R. C. 22.

CONTRACTS

I. IN GENERAL.

II. JURISDICTION, POWERS AND DUTIES OF COMMISSION.

III. RATE CONTRACTS.

Contract carriers, *see* Automotive Transportation III, 3.

I. IN GENERAL

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other than that specified in the franchise. *Tracy Gas Company*, 30 C. R. C. 22.

2. It is not customary for the Commission to approve construction contracts. *South Coast Gas Co.*, 30 C. R. C. 163, 165.

II. JURISDICTION, POWERS AND DUTIES OF COMMISSION

1. The Commission is not empowered to render an interpretative decision as to certain terms of a contract heretofore passed upon by the Commission between complainant and defendant. The courts form the proper forum for such determinations as the significance of water right and similar provisions in such contracts. *El Dorado W. Co. v. Western States G. & E. Co.*, 29 C. R. C. 565, 566.

2. In an application to transfer properties and issue securities therefor, the Commission is not called upon to determine to what extent contracts providing for the delivery of water at specified rates to the utility, or contracts creating an obligation on the utility to deliver water to others at a specified price, are subject to jurisdiction of the Commission, or whether the value assigned to such water rights should be modified. *Pacific Water Co.*, 30 C. R. C. 185, 190.

III. RATE CONTRACTS.

1. General Order No. 78 provides for the filing for approval by the Commission, of contracts involving special services, or providing for deviations from filed rates, fares, tolls, etc. *Re Special Services*, 30 C. R. C. 440.

CORPORATIONS

1. It is not necessary for corporations to obtain permission from the Railroad Commission in order to dissolve. *Pla-*

centia Domestic Water Co., 30 C. R. C. 430, 431.

CROSSINGS

I. IN GENERAL.

II. GRADE SEPARATIONS:

III. GRADE CROSSINGS.

1. Circumstances determining necessity.
2. Elimination of.

IV. DIVISION OF COSTS.

1. Grade separations.
2. Grade crossings.

V. SAFETY.

I. IN GENERAL

1. For recommendation that an inter-urban railway require frequent checks of operating conditions at a particular crossing in order that annoyance caused by unnecessary whistling or ringing of train gongs or bells be reduced to the minimum required by safe train operation, see *Duelks v. Pacific Electric Ry. Co.*, 30 C. R. C. 37, 38.

2. Supplement No. 1 to General Order No. 75 provides that carriers shall paint or maintain an identification number on the crossing signpost of each crossing, "except at crossings of named streets within incorporated cities or at crossings which have been exempted by order of the Commission from compliance with the

terms of section V of General Order No. 75." *Re Crossings*, 30 C. R. C. 922.

II. GRADE SEPARATIONS

1. The location and design of grade separations should be such as to eliminate hazard and promote the convenience of the users of both the highway and railroad and give proper grade and alignment to each. *California Highway Commission*, 29 C. R. C. 534, 537.

III. GRADE CROSSINGS

1. Circumstances determining necessity

1. Authorization to construct a crossing was denied where the only benefit to

be derived from the opening of the crossing would be confined to several industries immediately adjacent thereto, this benefit being in the form of convenience and not necessity. Such benefit must be weighed against the public hazard created by the opening of a new crossing at grade with impaired views. *City of Pasadena*, 30 C. R. C. 310, 312.

2. When a proposed crossing is two blocks from an existing crossing; an alternate route is available to detour traffic during the few days of the year a county fair is in session; the crossing would be comparatively hazardous, expensive to construct, and serve a useful purpose for only a few days during each year, authorization to construct will be denied. *County of Kern*, 30 C. R. C. 920, 921.

3. A temporary grade crossing of a railroad by a potentially important highway will not be authorized where the evidence shows that when such highway is opened across the railroad the grades should be separated. *City of Burbank*, 30 C. R. C. 764, 767.

2. Elimination of

1. Where a grade crossing was in a hazardous condition due to steep grades of approach, not having been constructed in accordance with conditions of the order authorizing its construction, and it appearing that traffic would not be seriously inconvenienced by using adjacent crossings, authorization was revoked and the crossing ordered closed to public travel. *Re Huntington Park*, 30 C. R. C. 60.

IV. DIVISION OF COSTS

1. Grade separations

1. The contention that the cost of providing proper highway alignment in approaches to grade separations is not a proper portion of the cost of a grade separation project to be shared by the railroad and that only a portion of the cost of providing the subway itself, should be assessed to the railroad, is a fair contention where the subway is so located that it will permit of proper highway alignment being made, but where the alignment of the highway on one side of the railroad at the existing crossing does not lend itself to a favorable separation, the situation warrants special considera-

tion. *California Highway Commission*, 29 C. R. C. 534, 536.

2. Where paving within the subway itself forms an integral part of the subway construction, it should be included in the cost of the subway. *California Highway Commission*, 29 C. R. C. 534, 537.

3. *Per Brundige and Louttit, dissenting.* If an error was made by public authority in locating a highway something more than 50 years ago the responsibility for that error rests with the public and not with the railroad. So far as the adequacy of a present undergrade crossing is concerned, the railroad should bear its full responsibility. If it is in the public interest that the new line of the highway be changed and that a new undergrade crossing be established at another and different location, then it is just and equitable that the railroad should contribute to the cost of the new undergrade crossing approximately the sum which it otherwise would have been justly required to pay to make the present undergrade crossing adequate and capable of serving the traffic. To require the railroad to pay half of the total cost of the proposed entirely new and substitute undergrade crossing is inequitable. *California Highway Commission*, 29 C. R. C. 534, 539.

4. Maintenance of an overhead crossing, excluding drainage along the railroad right of way, was ordered borne by the applicant county. *County of San Luis Obispo*, 30 C. R. C. 702, 703.

5. Authorization granted to a county to construct an overhead crossing on condition that no portion of the cost assessed to the county for the construction or maintenance thereof be assessed by the county, in any manner whatsoever, to the operative property of the carrier involved. *County of San Luis Obispo*, 30 C. R. C. 702, 703.

6. Where it was not essentially the relief from the hazard of crossing railroad tracks at grade which necessitated the construction of a pedestrian subway, but the fact that, due to the creation of an artificial barrier by the railroad for its sole benefit, the pedestrian traffic, in order to accomplish a crossing, must either use the hazardous vehicular roadways of the present subway or climb over said barrier, the cost of constructing the pedestrian highway was assessed 25 per cent to applicant city and 75 per cent to the carrier. *City of Marysville*, 30 C. R. C. 780, 782.

2. Grade crossings

1. Authorization was granted to a county to construct a crossing at grade on condition that no portion of the cost assessed to the county for the construction or maintenance thereof be assessed by the county, in any manner whatsoever, to the operative property of the carrier involved. *County of San Bernardino*, 30 C. R. C. 715, 716.

2. In apportioning the expense of construction of grade crossings, where it is shown that existing facilities of the carriers involved are ample for years to come, the costs of installing additional facilities for distant future use should be paid for by the owning company desiring such facilities. *City of Los Angeles*, 30 C. R. C. 748, 751.

V. SAFETY

1. Where a grade crossing was in a hazardous condition due to steep grades of approach, not having been constructed in accordance with conditions of the order authorizing its construction, and it appearing that traffic would not be seriously inconvenienced by using adjacent crossings, authorization was revoked and the crossing ordered closed to public travel. *Re Huntington Park*, 30 C. R. C. 60.

2. General Order No. 75 contains an exemption in regard to the installation of private crossing signs at private crossings, and also standard crossing signs at public crossings. *Peninsular R. Co.*, Decision No. 18992, Application No. 13881.

DAMAGES

1. The Commission has no jurisdiction with reference to damages to a passenger car of a railway by an unloading crane of complainant for reparation,

nor as to expenses incurred because of delays in placing cars. *Loeb v. Pacific Electric Ry. Co.*, 30 C. R. C. 489, 490.

DAMS

1. General Order No. 50, which states that no public utility shall begin the construction of any dam, etc., is not applicable where the construction is in connection with an extension of a dam as distinguished from original construction. *McKenna v. Pacific Gas & Electric Co.*, 30 C. R. C. 81.

2. Under the provisions of General

Order No. 50-A " * * * no public utility shall begin the construction, reconstruction, alteration or repair affecting the stability or safety of any dam without first having submitted to the Railroad Commission the plans and specifications therefor * * *." *Re General Order No. 50*, 30 C. R. C. 893, 894.

DEED OF TRUST

1. The form of bond as well as the provisions of the mortgage and/or deed of trust should be modified so that the consent of the holders of at least 80% in principal amount of the bonds outstanding instead of 75% be required before any change in the form of the bond or deed of trust becomes effective.

The instrument should contain a clause prohibiting any change in the maturity date of any bonds issued or any change in the interest rate or date on which the interest becomes due and payable on bonds issued, unless such change be approved by holders of all the bonds issued and outstanding. *Imperial Utilities Corporation*, 29 C. R. C. 587, 589.

DEPRECIATION

Charging of deficit to reserve for accrued depreciation. *See Accounting II.*

1. The Commission does not look with favor upon a utility charging its deficit to its reserve for accrued depreciation and reducing that account. A reversing entry should be made charging

the surplus account with the deficit and restoring the reserve to its former credit balance. *Portola Water Co.*, 30 C. R. C. 302, 306.

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DIRECTORIES

1. Applicant telephone utilities authorized to discontinue the practice of inserting bold-face type listings in the alphabetical sections of telephone direc-

tories, and of entering into contracts for such service. See *Home Tel. and Tel. Co. of Pasadena*, 30 C. R. C. 333, 335.

DISCRIMINATION

1. "It is a well established principle in rate making that a shipper is entitled to just, reasonable, nondiscriminatory and unprejudicial rates regardless of the amount of business transacted." *Sacramento B. L. Co. v. Southern Pacific Co.*, 30 C. R. C. 338, 344.

2. With the contention that since tonnage is now moving freely from a particular point, the competition encountered is of no consequence, that therefore there is no undue prejudice or discrimination, the Commission is not in accord, for the mere fact that that point markets more box shoo than the competing points may be due to a combination of economic conditions entirely foreign to freight rates. *Sacramento B. L. Co. v. Southern Pacific Co.*, 30 C. R. C. 338, 344.

3. Sound public policy requires that the rate schedules of a public utility be applied uniformly to all consumers in a locality receiving like service. *Great Western Power Company*, 30 C. R. C. 368.

4. Discrimination to be unlawful must be unjust, and to be unjust it must be shown that the rates at the preferred points are not justified, and that the circumstances and conditions are the same as at the point which is alleged to be damaged. *Sperry Flour Co. v. Island Transportation Co.*, 30 C. R. C. 561, 565.

5. The mere showing that rates from one point in a territory are higher than rates from other points in that territory,

whether maintained by the same carrier or different carriers, does not establish the fact of undue prejudice or preference. (*T. & P. R. R. Co. v. Interstate Commerce Commission*, 162 U. S. 197; *Interstate Commerce Commission v. Alabama M. R. Co.*, 168 U. S. 144; *L. & N. R. Co. v. Behlmer*, 175 U. S. 648; *East Tenn. V. & G. R. Co. v. Interstate Commerce Commission*, 181 U. S. 1; *Interstate Commerce Commission v. L. & N. R. Co.*, 190 U. S. 273.) *Sperry Flour Co. v. Island Transportation Co.*, 30 C. R. C. 561, 565.

6. When a telephone utility operates its territory as one exchange area as far as its regular subscribers are concerned, but divides the territory into several areas for determining charges against nonsubscribers, it rates and charges are objectionable due to actual discrimination or the possibility of discrimination between subscribers in various parts of the territory and between subscribers and nonsubscribers in the same portion of the area served. *Raymond Telephone Co.*, 30 C. R. C. 64, 66.

7. Because of the scope of the distribution territory involved it was held impracticable to prescribe the rate at each individual point in directing the removal of discrimination, but defendants will be expected to revise the rates at the points not specifically named in harmony with those set forth. *Sacramento B. L. Co. v. Southern Pacific Co.*, 30 C. R. C. 338, 345.

DONATIONS

Not a proper credit to unappropriated surplus. See Accounting II, 3.

EVIDENCE

I. PRESUMPTIONS AND BURDEN OF PROOF.

II. RELEVACY AND MATERIALITY.

III. WEIGHT AND SUFFICIENCY.

I. PRESUMPTIONS AND BURDEN OF PROOF

1. As the Commission has jurisdiction only over common carriers (operat-

ing between fixed termini or over a regular route), and not over private carriers, in view of the failure of the complainant to show any service of a common carrier, nature performed by defendant, it must

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Evidence I—General Orders

be found that the operations of such defendant are those of a private carrier, over which the Commission has no jurisdiction. *Anderson v. United Parcel Service*, 29 C. R. C. 531, 533.

2. “* * * there is cast upon the utility seeking an increase of rates the burden of proving by competent evidence a true valuation of the properties involved upon which an interest return is expected.” *Fresno Traction Co.* 30 C. R. C. 216, 217.

3. Until a satisfactory showing is made as to the amount of surplus earnings expended for additions and betterments, a utility will not be allowed to issue bonds to reimburse its surplus account. *Monrovia Tel. & Tel. Co.* 30 C. R. C. 735, 737.

4. Under the provisions of section 50 (d) of the Public Utilities Act the burden is upon the applicant to establish the fact that the proposed service would be in the public interest. *Ayres-White-side Transportation Co.*, 30 C. R. C. 92, 96.

II. RELEVANCY AND MATERIALITY

1. While complainant was insistent that a contract for the delivery of parcels between a number of department stores and defendant parcel delivery corporation be placed in evidence, defendant was not required to produce it, for the reason

that when the demand was made, complainant had produced no testimony in support of the material and essential allegations of his complaint, other than the physical presence in certain territory of vehicles bearing defendant's name, and delivery of packages therefrom. *Anderson v. United Parcel Service*, 29 C. R. C. 531, 532.

III. WEIGHT AND SUFFICIENCY

1. An assertion of a protestant stage operator that he has, for a period of two years, maintained a particular service at a loss of ten cents per car mile of operation, when not supported by any records or figures, must be received with doubt as to its accuracy. *T. R. Carpenter*, 30 C. R. C. 871, 874.

2. Because of applicant's failure to produce a witness, a revised cost estimate was not considered a part of the record, and a request to issue additional stock was denied for the reason that no evidence had been submitted to justify such issue. *Tracy Gas Co.*, 30 C. R. C. 244, 245.

3. A balance sheet as of thirty-three months prior to the filing of a petition to issue stock and transfer operative rights is of too remote a date to be considered in such proceeding. *F. H. White*, 30 C. R. C. 529, 530.

FINES

1. Interest, fines paid for violation of the traffic laws, loss by fire and loss on account of bad checks are not properly chargeable to operating expenses under

the Commission's accounting system. *Imperial Valley-Los Angeles Express*, 20 C. R. C. 579, 580.

FRANCHISES

1. The Commission refused to approve a proposed contract for the construction of a gas system or to authorize the expenditure of any stock or bond proceeds to pay for such a plant built of material other than that specified in the franchise. *Tracy Gas Company*, 30 C. R. C. 22.

2. Where a water system was installed before streets and alleys were dedicated to the public, a county fran-

chise is not required to install pipe lines. *F. Merkle*, 30 C. R. C. 27.

3. Where pipe lines and water mains have been installed before certain tracts were recorded and the streets and alleys therein dedicated to the public, no franchise is necessary for such construction. *Ocean Park H. L. & W. Co. v. Suburban Mutual Water Co.*, 30 C. R. C. 222, 224.

GENERAL ORDERS

G. O. 50-A—Plans for construction or repair of dams.

G. O. 79—Rules governing construc-

tion and filing of tariffs of passenger stage corporations. (80 C. R. C. 629.)

G. O. 80—Rules governing construction

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and filing of freight and express tariffs of automotive truck companies. (30 C. R. C. 629.)

G. O. 81—Reports of accidents of automotive passenger stages.

G. O. 82—Issuance of stock for qualification of directors.

G. O. 83—Time tables and maximum speed of passenger stages.

INJUNCTION

1. Although defendant had never applied for a certificate to operate a water system, where it was in fact declared to be a public utility by formal order of the Commission, was directed to file rates, rules and regulations and the order has been fully complied with, it is not necessary that the defendant apply for any

certificate to cover its existing operations. Under such circumstances the Commission would not be warranted in issuing an order designed to restrain defendant from further activities of a public utility nature in the territory served. *Ocean H. L. W. Co. v. Suburban Mutual W. Co.*, 30 C. R. C. 222, 226.

INTERCORPORATE RELATIONS

1. An automotive transportation company will not be granted final authorization to issue equipment trust certificates where the amounts proposed to be paid for such equipment are excessive due in part to the practice of having the parent company construct the equipment. The

practice of permitting a construction company to profit at the expense of a utility when owned or controlled by the same interests which own or control the utility, has long since been rejected by the Commission. *Pickwick Stages System*, 30 C. R. C. 761, 763.

INTEREST

Not properly chargeable to operating expenses. See Accounting II.

INTERSTATE COMMERCE

See, also, Automotive Transportation I.

1. The Commission has no jurisdiction over operations exclusively of an interstate character except as to reasonable restrictions upon the use of the highways in this state with respect to safety upon and the conservation of the same. (27 C. R. C. 846; *Duke Cartage Case*, 268 U. S. 570; *Buck v. Kuykendall*, 267 U. S. 307; *Bush & Sons v. Malloy*, 267 U. S. 317). The principles enunciated in 27

C. R. C. 846 with respect to interstate commerce apply equally as to commerce with foreign nations. Under the provisions of Chapter 254, Stats. 1925, page 433, auto carriers engaged in foreign commerce will be required to comply with such rules and regulations as the Commission, under such authority, has established or shall establish. *Woollet v. Compania de Transportes de la Baja California*, 29 C. R. C. 667, 671.

METERS

1. The owner of a utility should install a meter upon the service of any consumer who shows evidence of carelessness or wastefulness in the use of water,

in order to protect the other consumers in their right to receive adequate water. *J. J. Horrigan*, 30 C. R. C. 461, 464.

MONOPOLY AND COMPETITION

1. Where a structure or a group of structures which may reasonably be considered as requiring one complete service are so located as to lie across a terri-

torial boundary established by this Commission the consumer should be permitted to take service from either side of such boundary line. This condition is to be

Monopoly, Etc.—Pleading, Etc.

carefully distinguished from an instance where the consumer might build his electric facilities over such a boundary line to defeat the purpose for which such

boundary was established. *Vallejo E. L. & P. Co. v. Great Western Power Co.*, 30 C. R. C. 422, 423.

MORTGAGE

1. By authorizing the execution of a mortgage the Commission will not be under any obligation to authorize the issue of bonds up to 75 per cent of the cost or reasonable value of the property acquired, it being the policy of the Com-

mission to allow not to exceed 60 per cent of such cost or reasonable value except under extraordinary conditions. *Southwestern Gas and Fuel Co.*, 30 C. R. C. 411, 413.

NATURAL GAS

1. Natural gas administrator appointed with authority to allocate the supply among the interested utilities and direct discontinuance of service to indus-

trial and commercial consumers during period of shortage for domestic consumption. See *Los Angeles Gas and Electric Co.*, 30 C. R. C. 83.

PARTNERSHIPS

1. Upon authorization to transfer an automotive transportation line operated by a partnership to a corporation and to issue stock in payment therefor, the dis-

tribution of such stock between the partners is a matter for them to determine. *Orval Overall*, 30 C. R. C. 87, 91.

PLEADING AND PROCEDURE

1. Where in support of a protest against an application for a certificate, protestant relied upon certain applications previously heard and submitted, which sought certificates authorizing passenger service through the territory involved, such applications were excluded upon objection of counsel that they would necessarily entail a reexamination of the issues involved in the former proceedings. *S. F. Sierra Motor Coach Lines*, 29 C. R. C. 281, 294.

2. In a complaint seeking reparation from several carriers, although it is alleged that rates of a particular carrier are unjust and unreasonable, where that line was not made a defendant, the findings will be devoted solely to the rates from and to points on lines of those carriers properly made parties defendant. *Sacramento B. L. Co. v. Southern Pacific Co.*, 30 C. R. C. 338, 340.

3. Public utility properties which the owners have agreed to sell can not be sold without permission of the Commission. If an agreement to sell has already been executed it is nonoperative until authorization is secured. *Erikson Navigation Co.*, 30 C. R. C. 406, 408.

4. Because of doubt as to the jurisdiction of the Commission to render a declaratory judgment defining or confirming operative rights alleged to have been created prior to the effective date of Chapter 213, Statutes of 1917, an investigation was instituted on the Commission's own motion into the operations of the applicant. *J. B. Peckham Co.*, 30 C. R. C. 851.

5. Where notice of the time and place of a hearing on an order to show cause why certain operative rights should not be revoked was served by registered mail upon respondent, who personally received and receipted for said notice, upon failure of respondent or any other person in her behalf to appear at the hearing, the record showing unauthorized abandonment of service, respondent's operative rights were revoked. *Re Duggan*, 30 C. R. C. 886, 887.

6. Where complainant makes no appearance at the hearing and no evidence is offered in support of his allegations, the complaint will be dismissed. *Coulter v. Anderson*, 30 C. R. C. 891.

7. A motion to dismiss a complaint for reparation for alleged excessive and

discriminatory charges for the transportation of auto stages by vehicular ferry "based wholly upon the proposition that defendant is not a common carrier, in so far as regards complainant's stages while employed by complainant in its common carrier service and that, therefore, the tariff does not apply to those stages, but that the charges are a matter of private contract between the complainant and defendant and not subject to regulation by this Commission" was denied upon the ground that, irrespective of whether complainant's stages were being used in the common carriage of persons or property at the time of their transportation, defendant has never refused to receive and transport such stages and has, by its acts, dedicated its ferry service to the transportation of such auto busses or stages and their passengers and such

property as is carried thereon. The so-called "*Express Cases*" 117 U. S. 1, 21 L. ed. 791, has no application. *California Transit Co. v. Southern Pacific Co.*, 29 C. R. C. 664, 666.

8. When at a hearing, applicants for a certificate move a dismissal without prejudice on the ground that they are unable to secure witnesses at that time of the year because resorts being closed the owners could not attend as witnesses, the application will be dismissed, but not without prejudice; and it will be provided that should applicants hereafter file a similar application a hearing would not be set until a prima facie showing had been made by the filing of affidavits of material witnesses endorsing the proposed service. *Senator Service Co.*, 30 C. R. C. 786.

PREMIUM

Premium on bonds paid before maturity to be charged to surplus.

See Accounting II, 4.

PUBLIC UTILITIES

1. A company which has never served water to any consumers other than those located upon lots within its subdivided properties; which has required prospective purchasers of lots to sign an agreement containing a restrictive clause that the company would furnish water at a price fixed by the company, and which has confined its service to private arrangements with the consumers upon a non-profit basis, has not dedicated its supply to the public use, and is not a public utility. *Dillon Beach Co.*, 30 C. R. C. 76, 80.

2. Where defendant for a period of approximately 16 years has been delivering water for compensation to all members of the general public residing in and about a certain locality who applied for such service, has filed rates and annual reports with the Railroad Commission in compliance with its rules and regulations, and on whose monthly bills there appears a statement in part as follows: "In accordance with regulations of the Railroad Commission this bill is due and payable at the company office or to its agent," it is clear that defendant is operating his water system as a public utility. *Parker v. Gulling*, 29 C. R. C. 558, 561.

3. Where the prior owner of a ranch obtained a franchise, installed a water system supplied from the waters of said

ranch, and water had been supplied to consumers for some 27 years, new consumers being taken on only to the extent that old consumers discontinued service, and monthly charges are made for water, the present owner of such system is rendering a public utility service regardless of the fact that rates, rules and regulations have never been filed with the Commission, and of the contention that the water supplied was surplus water, and that no obligation existed to improve the quality of the service. *Lande v. The Napa Ranch*, 30 C. R. C. 704, 708. (Petition for writ of review denied March 8, 1928.)

4. The refusal of a public utility to accept payment for service after rendering service for compensation for a period of forty years will not change its status to that of a private company nor relieve it of its public utility obligations and liabilities. *Marin L. & S. Co.*, 30 C. R. C. 496, 504.

5. Although a water system was originally installed for the purpose of supplying water to a sawmill, where, for a period of forty years, the waters have been dedicated to public use and water has been sold for compensation to all applicants within the service area of the system, such system is a public utility. *Marin L. & S. Co.*, 30 C. R. C. 496, 503.

6. Although rates of a water system were not filed with the Commission until 1921, the public utility obligations and liabilities had impressed and attached themselves to such system from the begin-

ning of the dedication of the waters thereof to public use, and since the establishment of the Commission could not have been terminated without its authority. *Marin L. & S. Co.*, 30 C. R. C. 496, 504.

RATES

- I. IN GENERAL.
- II. REASONABLENESS OF RATES.
- III. SCHEDULES AND TARIFFS.
- IV. TEST PERIOD AND PERIOD OF REPOSE.
- V. PARTICULAR UTILITIES.
 - 1. Ferries.
 - 2. Irrigation utilities.
 - 3. Railroads.
 - 4. Telephone utilities.
 - 5. Vessels.

I. IN GENERAL

1. General Order No. 78 provides for the filing, for approval by the Commission, of contracts involving special services, or providing for deviations from filed rates, fares, tolls, etc. *Re Special Services*, 30 C. R. C. 440.

II. REASONABLENESS OF RATES

1. Exhibits comparing California grain rates with rates on grain in the southwestern territory and elsewhere are not of controlling importance for rate-making purposes by reason of the different conditions existing. *Albers Bros. Milling Co.*, 30 C. R. C. 866, 868.

2. Carrier competition has long been recognized as a controlling factor in creating different circumstances and conditions, warranting a lower level of rates between points where the competition exists than between the points not so situated. *Sperry Flour Co. v. Island Transportation Co.*, 30 C. R. C. 561, 565.

III. SCHEDULES AND TARIFFS

See, also, Schedules and Tariffs.

1. Authorization granted to a telephone utility to make legally effective rates charged and collected for several years where, through lack of understanding or inadvertence, a former manager of the utility had failed to file such rates with the Commission. *Gilroy Tel. Co.*, 30 C. R. C. 759, 760.

2. Rates will not be accepted for filing where no authority has been granted by the Commission for operation as a public utility. *Mrs. E. A. Ball*, 30 C. R. C. 42.

IV. TEST PERIOD AND PERIOD OF REPOSE

1. In order that the Commission might be advised of the effect of new rates, applicant was ordered to file within 15 days after the first of each month for a period of six months a statement for the preceding month setting forth in detail the total revenue received, total operating expenses and the net operating revenue segregated in accordance with the Commission's system of accounting. *Imperial Valley-Los Angeles Express*, 29 C. R. C. 579, 581.

V. PARTICULAR UTILITIES

1. Ferries

1. A motion to dismiss a complaint for reparation for alleged excessive and discriminatory charges for the transportation of auto stages by vehicular ferry "based wholly upon the proposition that defendant is not a common carrier, in so far as regards complainant's stages while employed by complainant in its common carrier service and that, therefore, the tariff does not apply to those stages, but that the charges are a matter of private contract between the complainant and defendant and not subject to regulation by this Commission" was denied upon

the ground that, irrespective of whether complainant's stages were being used in the common carriage of persons or property at the time of their transportation, defendant has never refused to receive and transport such stages and has by its acts, dedicated its ferry service to the transportation of such auto busses or stages and their passengers and such property as is carried thereon. The so-called "*Express Cases*," 117 U. S. 1, 29 L. ed. 791, has no application. *California Transit Co. v. S. P. Co.*, 29 C. R. C. 664, 666. See, also, *Reparation*.

2. Automobile stages or busses, from a transportation standpoint, are more properly to be rated under the heading of "trucks" than under that of "automobiles," and the Commission is not impressed by the argument that the purposes for which the auto stages or busses are used, i. e., to transport passengers rather than goods, requires a determination that from a transportation standpoint, they must be rated under a tariff as "automobiles." It is not to be understood that ordinary touring cars, sedans, or the like, which are being used to transport persons for compensation are to be rated as "trucks." *California Transit Company v. S. P. Co.*, 29 C. R. C. 664, 667-8.

2. Irrigation utilities

1. The establishment of additional rates for cumulative irrigation water and for water not regularly applied for in advance of the irrigation season was authorized. *Diamond Ridge W. Co.*, 30 C. R. C. 730, 734.

3. Railroads

1. While defendant carrier urged that the only route available for traffic from northern origin points destined to Redwood City was through Stockton, Livermore and Dumbarton, hence the milling point, San Francisco, not being directly intermediate via this route, there was a back haul service from San Francisco to Redwood City, where the carrier had published specific rates to Redwood City, which rates, under the provisions of the carrier's routing circular, applied through the Dumbarton gateway, and also via Suisun, Oakland and San Francisco, this made San Francisco a directly intermediate point in the movement to Redwood City via the latter route, and since the publication of specific rates to Redwood City no back haul charge was applicable. *Reparation* awarded. *S. F. Milling Co.*

v. Southern Pacific Co., 30 C. R. C. 566, 568.

2. It is the usual practice of rail carriers to establish commodity rates on fresh fruit, carloads, not exceeding the Class "C" rates. *California Packing Corp. v. Atchison, Topeka and Santa Fe Ry.*, 30 C. R. C. 746, 747.

3. While objection to a 30,000 pound minimum weight to the point that the practice had been to sell in 40,000 pound lots, since the present minimum will not disturb the continuation of such trade practice and only permits a buyer to purchase in smaller quantities, the contention that the minimum weights were not properly adjusted is without merit. *Globe Grain & M. Co. v. Atchison, Topeka & Santa Fe Railway*, 29 C. R. C. 567, 569.

4. Mere comparison of rates when no evidence is submitted to show that the rates used as a measure are *per se* just and reasonable shall have little, if any, probative value. *Sperry Flour Co. v. Island Transportation Co.* 30 C. R. C. 561, 563.

5. Complainant proposed as reasonable maximum rates for grain in California a distance scale prescribed by the Interstate Commerce Commission (101 I. C. C. 116) commonly referred to as the Southwestern Scale, and on flour 110 per cent of the rates contemporaneously proposed on grain to be held as maximum, permitting any lower rates to continue in effect. There being many rate schedules not referred to by complainant where flour rates fail to reflect any uniform percentage relationship to the grain rates, this demonstrates that flour rates are responsive to the needs and the circumstances and conditions existing in the territory where applicable. *Albers Bros. Milling Co. v. Southern Pacific Co.*, 30 C. R. C. 860, 868.

6. Flour rates in California are not constructed with any definite relationship to the rates on grain, and if any relationship were established some consideration could probably be given to the average loadings of the commodities. *Albers Bros. Milling Co. v. Southern Pacific Co.*, 30 C. R. C. 866, 870.

7. The unit of tonnage via steamer lines is, in general practice, much greater than via rail carriers and tariffs on file show many grain rates between California points based on lots of 100 tons and over. *Globe Grain & M. Co. v. Atchison, Topeka & Santa Fe Ry.*, 29 C. R. C. 567, 571.

8. Rates from producing mills to the consuming markets may well be closely related, for the relationship is often of

greater importance to the shipping and consuming public than the volume of the rate itself. *Reduced Rates on Cement*, 30 C. R. C. 352, 354.

9. Authorization granted to establish a rule imposing a charge of ten cents per ton for checking contents into or out of cars upon request on switching movements. *Southern Pacific Co.*, 30 C. R. C. 363, 364.

10. The theory upon which minimum charges are assessed on unusually long or bulky articles is to compensate carriers for the difficulty and additional expense involved in handling this type of commodity. *Pacific Freight Tariff Bureau*, 30 C. R. C. 372, 375.

11. With the contention that since tonnage is now moving freely from a particular point, the competition encountered is of no consequence, that therefore there is no undue prejudice or discrimination, the Commission is not in accord, for the mere fact that that point markets more box shoo than the competing points may be due to a combination of economic conditions entirely foreign to freight rates. *Sacramento B. L. Co. v. Southern Pacific Co.*, 30 C. R. C. 338, 344.

12. "It is a well established principle in rate making that a shipper is entitled to just, reasonable, nondiscriminatory and unprejudicial rates regardless of the amount of business transacted." *Sacramento B. L. Co. v. Southern Pacific*, 30 C. R. C. 338, 344.

4. Telephone utilities

1. A telephone utility should compensate present owners of telephone lines and equipment used in providing telephone service in a fair and reasonable amount before collecting from them rental charges based on the nonowner rate. *Raymond Telephone Co.*, 30 C. R. C. 64, 67.

2. Rates for like grades of telephone service in different districts served by a telephone utility should be the same under the same conditions. *Pomona Val. Tel. & Tel. Union*, 30 C. R. C. 606, 613.

3. There is more certainty of good telephone service being given between two communities if the participating operating companies would receive compensation for each call completed and an expense without revenue when calls are not completed instead of greater expense when more calls are offered. *Pomona Val. Tel. & Tel. Union*, 30 C. R. C. 593, 596.

4. Equal initial toll telephone and telegraph rates should be charged between any point within a specified zone and

any particular point outside that zone. *Raymond Telephone Co.*, 30 C. R. C. 64, 68.

5. The establishing of "an other line" telephone rate contemplating the addition of the rates of the two connecting companies in computing the through charge, without further investigation, would be in violation of Section 24 (b) of the Public Utilities Act. *Reedley Telephone Co.* 30 C. R. C. 105, 107.

6. As to the division of a telephone area into two or more exchange areas and the establishment of exchange service in each exchange under flat rates, and service between such exchanges on a charge per message or toll basis, it is almost as great an error to adopt such plan prematurely as to fail to apply it at the opportune time. *Pomona Val. Tel. & Tel. Union*, 30 C. R. C. 606, 610.

7. Among the factors which should be considered before a final determination is reached to change from flat to toll rates are (1) the extent of the territory served, (2) the extent of the community interest between the several sections and the amount of intracommunity telephone traffic within these communities as compared with the intercommunity traffic, (3) comparison of the cost of service to the majority of the telephone users under the two plans and effect of flat rate plan on charges to the smaller users of the service, (4) consideration of present and proposed method of operating the system. *Pomona Val. T. & T. Union*, 30 C. R. C. 606, 610.

8. Request for a guarantee of fifty messages per month per station on a toll line was granted, with the provision that traffic records of all originating and terminating messages should be kept so that data available for a determination of the reasonableness of the rates could be obtained. *Home Tel. Co. of Covina*, 30 C. R. C. 767, 769.

9. When a telephone utility operates its territory as one exchange area as far as its regular subscribers are concerned, but divides the territory into several areas for determining charges against nonsubscribers, its rates and charges are objectionable due to actual discrimination or the possibility of discrimination between subscribers in various parts of the territory and between subscribers and nonsubscribers in the same portion of the area served. *Raymond Telephone Co.*, 30 C. R. C. 64, 66.

10. As to a proposed telephone charge applicable to nonsubscribers only, for service between two stations within any zone, a rate for such service should apply

only to messages originating at designated pay stations, and should be without time limit except as all exchange messages are limited by the application of reasonable rules and regulations. *Raymond Telephone Co.*, 30 C. R. C. 64, 68.

5. Vessels

1. It appearing from the evidence that

South Vallejo is an out-of-line landing wharf on the route between San Francisco and Stockton, in the absence of specific proof to the contrary, it can not be given the status of an intermediate point as contemplated by Section 24 (a) of the Public Utilities Act. *Sperry Flour Co. v. Island Transportation Co.*, 30 C. R. C. 561, 563.

REPARATION

1. The Commission has no jurisdiction with reference to damages to a passenger car of a railway by an unloading crane of complainant for reparation, nor as to expenses incurred because of delays in placing cars. *Loeb v. Pacific Electric Ry. Co.*, 30 C. R. C. 489, 490.

2. Where rates in issue to a greater or less extent represent a general readjustment over a large territory, reparation will not be awarded. *Albers Bros. Milling Co. v. Southern Pacific Co.*, 30 C. R. C. 866, 871.

3. A motion to dismiss a complaint for reparation for alleged excessive and discriminatory charges for the transportation of auto stages by vehicular ferry "based wholly upon the proposition that defendant is not a common carrier, in so far as regards complainant's stages while employed by complainant in its common carrier service and that, therefore, the tariff does not apply to those stages, but that the charges are a matter of private contract between the complainant and defendant and not subject to regulation by this Commission" was denied upon the ground that, irrespective of whether complainant's stages were being used in the common carriage of persons or property at the time of their transportation, defendant has never refused to receive and transport such stages and has by its acts, dedicated its ferry service to the transportation of

such auto busses or stages and their passengers and such property as is carried thereon. The so-called "*Express Cases*" (117 U. S. 1, 29 L. ed. 791) has no application. *California Transit Co. v. Southern Pacific Co.*, 29 C. R. C. 664, 666.

4. While a state commission has no authority under the provisions of Sec. 208 (a) of the Transportation Act to award reparation on shipments moving during the Federal Guaranty Period, operative March 1 to August 31, 1920, (*N. Y. Central R. Company v. N. Y. P. Co.*, 271 U. S. 124; 28 C. R. C. 663), and the Interstate Commerce Commission having held that " * * the only order we can lawfully make as to such shipments is one of a permissive character" (122 I. C. C. 443, 448), an award of reparation was made subject to the approval of the Interstate Commerce Commission under said Sec. 208 (a). *Union Oil Co. v. Southern Pacific Co.*, 30 C. R. C. 220, 221; *Union Oil Co. v. Southern Pacific Co.*, 30 C. R. C. 226, 228.

5. In a complaint seeking reparation from several carriers, although it is alleged that rates of a particular carrier are unjust and unreasonable, where that line was not made a defendant, the findings will be devoted solely to the rates from and to points on lines of those carriers properly made parties defendant. *Sacramento B. L. Co. v. Southern Pacific Co.*, 30 C. R. C. 338, 340.

REPORTS

Automotive stage companies to report accidents to Commission, *see* Accidents, *also*, General Order 81.

1. Defendant having explained why his annual report was not filed with the Commission, and having filed said report subsequent to the hearing, an investigation to determine whether the statutory penalties should be invoked and defendant's certificate revoked was dismissed. *G. A. Scott*, 30 C. R. C. 862.

2. As to the liability of reports on automotive stage accidents of a confidential nature being allowed to pass into the hands of unauthorized parties, this condition is amply protected by section 28 of the Public Utilities Act. *Re Auto Accidents*, 30 C. R. C. 863.

RETURN

Apportionment of operating expenses. See Apportionment.

1. A return of 18.9% is excessive. *City of Sonora v. Tuolumne Co. E. P. & L. Co.*, 29 C. R. C. 618, 620.

2. In estimating operating expenses the Commission provided for the amortization of the reasonable cost of a rate proceeding. *Delta Tel. & Tel. Co.*, 30 C. R. C. 512, 516.

3. Interest, fines paid for violation of the traffic laws, loss by fire and loss on account of bad checks are not properly chargeable to operating expenses under the Commission's accounting system. *Imperial Valley-Los Angeles Express*, 29 C. R. C. 579, 580.

4. In estimating operating expenses the Commission's engineers did not allow anything to cover the loss sustained by a telephone company in conducting a boarding house for its operators. *Delta Tel. & Tel. Co.*, 30 C. R. C. 512, 516.

5. When a system was originally designed to serve a far greater population than is actually now supplied with water, and is to that extent overbuilt, a full

return can not reasonably be expected. *Plymouth Water Company*, 30 C. R. C. 480, 482.

6. When a utility is still in a stage of development a full return upon the investment can not be granted without establishing a rate more than the service is reasonably worth and prohibitory to consumers. *O. N. Hirsch*, 30 C. R. C. 776, 779.

7. Where applicant has failed to show that it is confronted by an emergency necessitating a rate increase pending decision on its application to readjust rates, and where a determination of the extent to which applicant has been damaged, if at all, by its alleged inability to earn a fair return, requires a determination of the major issues in the proceeding, an emergency rate increase will be denied. *Los Angeles Ry. Corp.*, 30 C. R. C. 46, 48.

8. A telephone utility earning approximately a 5 per cent return is entitled to an increase in rates. *Pomona Val. T. & T. Union*, 30 C. R. C. 606, 614.

SAFETY

See Automotive Transportation IX; Crossings V.

SCHEDULES AND TARIFFS

See, also, Rates III.

1. In the absence of specific tariff provisions covering articles transported, it is necessary in determining the rate applicable to consider the transportation characteristics of the particular article in question. "It is the character of an article from a transportation standpoint, and not the use of which parties may contract that it shall be put, that determines the rate or rating applicable." (*Chase Companies v. Director General*, 81 I. C. C. 207.) *California Transit Co. v. Southern Pacific Co.*, 29 C. R. C. 664, 667.

2. Automobile stages or busses, from a transportation standpoint, are more properly to be rated under the heading of "trucks" than under that of "automobiles," and the Commission is not impressed by the argument that the purposes for which the auto stages or busses are used, i. e. to transport passengers

rather than goods, requires a determination that from a transportation standpoint, they must be rated under a tariff as "automobiles." It is not to be understood that ordinary touring cars, sedans, or the like, which are being used to transport persons for compensation are to be rated as "trucks." *California Transit Company v. S. P. Co.*, 29 C. R. C. 664, 667-8.

3. Rates will not be accepted for filing where no authority has been granted by the Commission for operation as a public utility. *Mrs. E. A. Ball*, 30 C. R. C. 42.

4. An automotive transportation company operating prior to May 1, 1917, has not forfeited or abandoned such right because of failure to file tariffs, rules and regulations within a reasonable time thereafter where the operator had been advised by a letter from the Commission

that it would not be called upon to file such a tariff. *J. B. Peckham Co.*, 30 C. R. C. 851, 853.

5. When no schedule of meter rates has ever been established for a water system, it is necessary, when the utility is directed to install meters, to file formal application requesting that such a schedule be authorized. *R. Gallegos*, 30 C. R. C. 888, 890.

6. A rule of a water utility requiring irrigation consumers to file a seasonal application for water on or before a specified date, and to pay one-third of the seasonal bill upon making application for service is reasonable and proper. *Diamond Ridge W. Co.*, 30 C. R. C. 730, 733.

7. "Tariffs should be clear and unambiguous, and when there is an ambiguity by reason of which a shipper has suffered, the carrier being responsible for the ambiguity should certainly be required to sustain the loss, but where as here, the shipper shows no loss whatsoever and the construction sought is contrary to the plain intent of the tariff, I think such shipper should have no standing before this Commission." (2 C. R. C. 607, 609.) *F. W. Gompf*, 29 C. R. C. 582, 584.

8. A tariff ambiguity must be construed against its framer provided the

interpretation placed thereon does not result in an absurd situation. (*Golden Gate Brick Co. v. W. P. R. R.*, 2 C. R. C. 507; *Pacific Coast Shippers Association v. A. C. & Y. R. Co.*, 112 I. C. C. 527.) *S. F. Milling Co. v. Southern Pacific Co.*, 30 C. R. C. 566, 569.

9. Chemically treated and sized paper used for drying fruits are not "fruit trays," but fall within the description "wrapping paper" or "fruit drying paper." *San Joaquin G. Co. v. S. P. Co.*, 30 C. R. C. 682, 684.

10. " * * * it is the character of an article from a transportation standpoint, and not the use to which parties may contract that it shall be put, that determines the rate or rating applicable." (*Chase Companies v. Director General*, 81 I. C. C. 207.) *San Joaquin G. Co. v. S. P. Co.*, 30 C. R. C. 682, 684.

11. It is a well recognized principle in tariff publication that the intention of the framers can not be given controlling weight and an ambiguity should be construed against the framer provided it does not result in placing an absurd construction on the tariff. (*Golden Gate Brick Co. v. Western Pacific R. R.*, 2 C. R. C. 607; *Pacific Coast Shippers Assn. v. A. C. & Y. R. Co.*, 112 I. C. C. 527.) *Pacific Freight Tariff Bureau*, 30 C. R. C. 372, 376.

SECURITY ISSUES

I. PURCHASE OF BY ANOTHER UTILITY.

II. JURISDICTION, POWERS AND DUTIES OF COMMISSION.

III. NATURE AND KIND OF SECURITIES.

IV. PURPOSE.

1. In general.
2. Acquisition of property.
3. Payment for replacements—Working capital.
4. Reimbursement of treasury.

V. AMOUNT.

VI. FACTORS AFFECTING ISSUANCE.

VII. SALE PRICE.

VIII. COST OF FINANCING.

IX. INTEREST.

X. USE OF PROCEEDS.

Premium on bonds paid before maturity to be charged to surplus.

See Accounting II, 4.

I. PURCHASE OF BY ANOTHER UTILITY

1. While the Commission may authorize one utility to purchase stock of an-

other utility in order to obtain control thereof, it does not thereby determine the amount of such purchase price which may be charged to fixed capital accounts at the time the properties of the latter

utility are transferred to the former. *So. Cal. Edison Co.*, 30 C. R. C. 699, 701.

2. In an application of one utility to acquire by exchange outstanding stock of other utilities any action that the Commission or the applicant may take in the matter is not compulsory, and any holders of stock not desiring to accept the offer of exchange may continue the ownership of stock now held by them. *Pacific Gas and Electric Co.*, 30 C. R. C. 756, 758.

II. JURISDICTION, POWERS AND DUTIES OF COMMISSION

1. Upon authorization to transfer an automotive transportation line operated by a partnership to a corporation and to issue stock in payment therefor, the distribution of such stock between the partners is a matter for them to determine. *Orval Overall*, 30 C. R. C. 87, 91.

2. While a utility can issue one-year notes without obtaining permission from the Commission, it can not renew them unless authorized to do so. Seeking permission to renew one-year notes upon maturity is, in effect, asking permission to incur a two-year indebtedness, thus bringing the matter within the Commission's jurisdiction. *Portola Water Co.*, 30 C. R. C. 302, 307.

3. The Commission has no jurisdiction over the issue of stock by a corporation organized and existing under and by virtue of the laws of another state. *So. Sierras Power Co.*, 30 C. R. C. 839.

III. NATURE AND KIND OF SECURITIES

1. Being of the opinion that the indebtedness which a utility desired to incur was more of the nature of a note than of a bond, it was required that if any evidence of indebtedness was delivered as part payment for properties, the same be designated as notes and not as debenture bonds. *Placencia Domestic Water Co.*, 30 C. R. C. 430, 431.

2. A provision in a mortgage and/or deed of trust that additional bonds may be certified by the trustee in amount equal to not exceeding 80 per cent of the cash cost or the fair value should be modified so that the trustee may not certify bonds in excess of 60 per cent of said cash cost or fair value, whichever is less. *Calif. Water Service Co.*, 30 C. R. C. 876, 884.

3. The execution of a charter party,

which is an evidence of indebtedness, when some of such indebtedness is payable at more than one year after date, should be authorized by the Commission. *So. Coast Steamship Co.*, 30 C. R. C. 536, 537.

4. Agreements of sale providing for the payment of a specified sum annually until paid are evidences of indebtedness, payable more than one year after date of execution, as defined in section 52 of the Public Utilities Act, and as such should be approved by the Commission. *Portola Water Co.*, 30 C. R. C. 302, 307.

5. Agreements for the purchase of equipment which provide for final payments later than one year after the dates of execution are evidences of indebtedness coming within the provisions of section 52 of the Public Utilities Act. *Erikson Navigation Co.*, 30 C. R. C. 406, 408.

IV. PURPOSE

1. In general

1. Where a utility has not yet obtained its new franchise, has not filed an application for permission to exercise the rights and privileges under such franchise and has not furnished a detailed statement of actual expenditures incurred in connection with the acquisition of the franchises, the Commission will not authorize it to issue any stock to acquire new franchises. *Ojai Power Co.*, 29 C. R. C. 603, 604.

2. The Commission can not authorize the issuance of several hundred thousand dollars of stock until furnished with a statement showing the purpose for which the proceeds obtained from the sale of such stock are to be expended. *Los Angeles C. W. Co.*, 30 C. R. C. 194, 196.

2. Acquisition of property

1. If a vendee desires to pay \$150,000 for the stock of a company whose balance sheet indicates a net worth of some \$50,000, the difference should be paid out of the vendee's surplus. If stockholders desire to make such a contribution to the corporation that is their concern, but the public patronizing the utility should not now or in the future be called upon to pay such amount or interest upon it, directly or indirectly. *Peerless Stages*, 30 C. R. C. 346, 350.

3. Payment for replacements—Working capital

1. Retirement of properties should in part at least be financed through charges

to depreciation reserve and not through the issue of stock. *Delta Tel. & Tel. Co.*, 30 C. R. C. 512, 517.

2. The Commission has, in certain rate cases, allowed working capital in amount equivalent to approximately two months' operating expenses, and granted authority to obtain a like amount through the issue of securities. *Tracy Gas Co.*, 30 C. R. C. 424, 426.

4. Reimbursement of treasury

1. In considering an application to issue bonds, when substantially all the proceeds will be used to pay indebtedness, although a portion may be used for other specified purposes, the amount of the proceeds that may be used to reimburse treasury should be limited to the amount of applicant's unappropriated corporate surplus. *Southern Sierras Power Co.*, 30 C. R. C. 168, 169.

2. "An order authorizing the issue of stock for the purpose of reimbursing the treasury requires, among other things, a determination of the extent of the surplus earnings invested in the properties and business of the company." *Portola Water Co.*, 30 C. R. C. 302, 306.

3. If public utilities desire to reimburse their treasuries, it is incumbent upon such utilities to show that the reimbursement of their treasuries is reasonably required and to submit evidence which will enable the Commission to make a finding such as it is obliged to make under the provisions of the Public Utilities Act. *Bay Point L. & P. Co.*, 30 C. R. C. 719, 721.

V. AMOUNT

1. In authorizing the issue of stocks and bonds the actual cost of constructing public utility properties, or if such cost is not known, the estimated original cost, giving due regard to the earnings thereof, is the proper basis for the capitalizing of properties. In case of re-financing existing properties, consideration must be given to depreciation. To deviate from this policy because some one has paid more for the property than its actual or estimated cost depreciated, is neither sound finance nor in the public interest. *California Water Service Co.*, 30 C. R. C. 876, 882.

2. By authorizing the execution of a mortgage the Commission will not be under any obligation to authorize the issue of bonds up to 75 per cent of the cost or reasonable value of the property acquired, it being the policy of the Com-

mission to allow not to exceed 60 per cent of such cost or reasonable value except under extraordinary conditions. *Southwestern Gas and Fuel Co.*, 30 C. R. C. 411, 413.

3. Operative rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. *Peoples Stages*, 30 C. R. C. 346, 349.

4. To recapitalize operating properties on a basis so that they can show only a return of 3 or 4 per cent on common stock is not in the public interest. *California Water Service Co.*, 30 C. R. C. 876, 883.

5. An automotive transportation company was authorized to use not more than a specified amount in payment for the stock of another company, any payments made in excess of this amount to be obtained from the company's surplus or stockholders, and charged to applicant's corporate surplus account. *Peoples Stages*, 30 C. R. C. 346, 349.

6. When called upon to authorize the issue of stock and bonds to refinance public utility properties the same principles should be adhered to as are followed when authorizing the issue of securities to finance properties to be constructed anew. An estimate of what it would cost to reproduce the properties new, whether depreciated or not, or even what a purchaser may have agreed to pay for the properties are too fanciful to warrant serious consideration. *California Water Service Co.*, 30 C. R. C. 876, 882.

7. It was required as a condition concurrent with the issue of securities that applicant must acquire free and clear of all encumbrances all of the properties or stock (except cash for working capital) described in the application. The Commission fixed a maximum amount for such properties and stock, realizing that according to the record some one had agreed to pay more than that amount therefor. If necessary to pay more the difference between the amount authorized and the price to be received by the vendors must be paid by some one other than applicant. *California Water Service Co.*, 30 C. R. C. 876, 883.

VI. FACTORS AFFECTING ISSUANCE

1. In an application to transfer properties and issue securities therefor, the Commission is not called upon to determine to what extent contracts providing for the delivery of water at specified rates to the utility, or contracts creating

an obligation on the utility to deliver water to others at a specified price, are subject to the jurisdiction of the Commission, or whether the value assigned to such water rights should be modified. *Pacific Water Co.*, 30 C. R. C. 185, 190.

2. The capitalization of properties should bear some relation to their earnings as well as the cost or the value thereof and a form of capitalization which, on its face, seems to preclude the raising of some of the construction funds through the issue of common stock is not in the public interest and should not be authorized. *L. A. Water Works*, 30 C. R. C. 577, 580.

VII. SALE PRICE

1. The Commission does not look with favor upon the issue of eight per cent cumulative preferred stock at eighty per cent of its par value. *Peerless Stages*, 30 C. R. C. 346, 349.

2. While an order may require that stock, if sold, shall be sold for not less than par for cash, no determination is thereby made that the stock is worth the par value thereof. *Gt. Western Power Co.*, 30 C. R. C. 538, 539.

3. While the Commission required that stock, if sold, should be sold for not less than par for cash, it was provided that each stock certificate should contain a statement that the authorization "is permissive only and is not to be deemed equivalent to a determination that said stock is worth the par value thereof." *Gt. Western Power Co.*, 30 C. R. C. 538, 540.

4. Though debentures will not be a lien on property, it was held that applicant should receive at least 94½ and accrued interest therefor, the record not warranting their sale at a lower price. *Cal. Oregon Power Co.*, 30 C. R. C. 541, 542.

VIII. COST OF FINANCING

1. An allowance of 20 per cent of the proceeds realized from the sale of stock to pay the cost of selling the same, including commissions and other expenses was

considered excessive and 15 per cent was allowed. *South Coast Gas Co.*, 30 C. R. C. 163, 165.

2. In authorizing the issue and sale of stock, the Commission allowed a payment of not exceeding fifty cents per share for commissions and other expenses incident to the sale of such stock. *So. Cal. Edison Co.*, 30 C. R. C. 754, 755.

3. The evidence not justifying the allowance of 4 per cent of par value of stock to pay stock selling expenses and commissions, but 2 per cent was permitted to be used for those purposes. *Coast Counties G. & E. Co.*, 30 C. R. C. 797, 799.

IX. INTEREST

1. The Commission will not authorize the issuance of bonds on the basis of an interest rate of 6.90 per cent and a company owning all outstanding bonds of applicant and intending to purchase the proposed issue should pay for the bonds of applicant a price which applicant could obtain in the open market. *Southern Sierras Power Co.*, 30 C. R. C. 168, 169.

2. Interest during construction calculated at 7 per cent on moneys advanced was held unjustified under existing financial conditions, in authorizing the issuance of securities. *Cal. Oregon Power Co.*, 30 C. R. C. 541, 543.

X. USE OF PROCEEDS

1. When the showing as to the expenditures of stock proceeds for new equipment in excess of a particular amount was not definite, the order provided that no proceeds could be expended for this purpose over and above that amount until authorized in supplemental orders. *Peerless Stages*, 30 C. R. C. 346, 348.

2. The execution of a contractor's bond and the filing of a certified copy thereof with the Commission was made a condition precedent to the expenditure of any moneys obtained from an issue of securities for the payment of the contract price. *Tracy Gas Company*, 30 C. R. C. 424, 426.

SERVICE

I. DUTY OF UTILITY TO RENDER SERVICE.

II. ABANDONMENT OR DISCONTINUANCE.

1. In general.
2. Necessity for continuance.
3. Operation at a loss.
4. Reduction of service.

III. ACCESSORIES AND CONNECTIONS.

IV. SERVICE BY PARTICULAR UTILITIES.

1. Ferries.
2. Railroads.
3. Street railroads.
4. Telephone.
5. Water.

I. DUTY OF UTILITY TO RENDER SERVICE

1. Rates for the sale of water for mining use being on file with the Commission, in the absence of a positive and convincing showing that no water is available to meet such an application for service, the service should and must be rendered. *El Dorado W. Co. v. Western States G. & E. Co.*, 29 C. R. C. 565, 567.

2. "Every utility, as long as it is operating as such, is required by this Commission to give a reasonable and proper service to its consumers for the charges collected, and when service is not proper, it is the duty of the utility, without delay, to take reasonable steps to provide adequate service to consumers when complaint is made." *J. J. Horigan*, 30 C. R. C. 461, 462.

3. Purported transfers of property devoted to public use being void when not authorized by the Commission, a company which, by means of a foreclosure sale, now owns and possesses a public utility water system, must continue to render service unless and until authorized to discontinue by the Commission. *Marin L. & S. Co.*, 30 C. R. C. 496, 503.

4. "The Commission requires each and every public utility water system to furnish an adequate and reasonable supply of water to its patrons at all proper times, and, when existing facilities are inadequate, the utility is expected and

required to expend all reasonable effort to improve conditions and obtain additional water." *Lande v. The Napa Ranch*, 30 C. R. C. 704, 708.

5. " * * * the fact that existing revenues may be insufficient to provide for a fair net return upon the investment in the utility properties does not discharge the duty of a public utility to render reasonable and adequate service where the facilities provided by the Public Utilities Act to obtain rates sufficient to net a fair return have not been availed of by such utility." *Lande v. The Napa Ranch*, 30 C. R. C. 704, 709. (Petition for writ of review denied March 8, 1928.)

6. It is primarily the duty of a water utility to furnish a sufficient supply to meet the needs of its consumers, both present and prospective, and to provide the necessary facilities to enable the rendering of adequate service. *Booth & Abbott*, Decision 19008, Application 13732.

7. When a territory is wholly beyond the present area in which a water utility has dedicated its supply, the utility has never held itself out to serve any portion of that territory, and the cost of installing a proper system would not be compensatory, the Commission is not justified in directing extension of service, although the utility may be required to supply the area from such surplus waters as may be available over and above requirements of present and future consumers within its dedicated area. *Castro Val. Imp't. Club v. East Bay W. Co.*, 30 C. R. C. 685.

II. ABANDONMENT OR DISCONTINUANCE

Substitution of auto service for rail service. See Automotive Transportation II, 3.

1. In general

1. Elimination of all "dead head" or non-revenue passenger mileage is in the interest of economical operation. *Napa Valley Bus Co.*, 29 C. R. C. 632, 652.

2. Any economy which can be effected by the management of a company whose revenues have been steadily decreasing is justified, provided an undue burden or inconvenience is not placed on the traveling public by a reduction in train schedules or curtailment of facilities. A substitution of stage service in lieu of trains proposed to be discontinued was held justifiable under the record presented, the proposed substituted bus service to be established by a separate corporation and to be coordinated with the rail service. *Napa Valley Bus Co.*, 29 C. R. C. 632, 651. (Petition for writ of review denied November 28, 1927.)

3. Where it is alleged impracticable to purchase a "farmer line" for the reason that it is not possible, except by a heavy expenditure, to maintain such line during winter, applicant should seek seasonal abandonment of its line to a specified point. (19 C. R. C. 59.) *Raymond Tel. Co.*, 30 C. R. C. 64, 67.

4. Authorization to abandon water service was granted where, due to the existence of a water district ready and willing to supply all consumers, the utility could not operate save at an ever increasing financial loss. *Montecito Val. W. Co.*, 30 C. R. C. 493, 495.

5. When the owner of a water utility was authorized to transfer his system, but retained without authority five consumers, and later applies for authority to discontinue service, such application will be denied, where to authorize discontinuance would leave such consumers without an adequate water supply, and the operations are actually earning a reasonable return upon that part of the investment properly chargeable to the service. *R. Gallegos*, 30 C. R. C. 888, 890.

2. Necessity for continuance

1. An objection to proposed abandonment of motor bus service on the ground that transportation is necessary to convey children to school, particularly during the rainy season, is not sufficient to

warrant the continuance of service at a substantial loss to a company already in financial straits, particularly where the school district may, where necessary, furnish transportation to such children when public transportation facilities are not available. *Key System Transit Co.*, Decision 18983, Application 13947.

3. Operation at a loss

1. Although the Commission can not too strongly condemn operating methods of a utility which has from the start operated illegally, never having obtained a certificate from the Commission, authorization to discontinue service was granted where the system could not be operated at other than a financial loss; the supply had been condemned as unfit for human consumption, and other water was readily available from a reliable source. *Gore Bros.*, 30 C. R. C. 555, 557.

2. It is unfair to require the continuance of water service at a considerable financial loss. *John Rentz*, 30 C. R. C. 598, 600.

4. Reduction of service

1. Upon a showing that an average of 4.4 revenue passengers were carried per single trip, that existing street car service is ample to handle local traffic, and that a saving of \$20,000 per year could be effected thereby, an interurban line was authorized to reduce service to two trips each way daily. *S. P. Co.*, 30 C. R. C. 849.

III. ACCESSORIES AND CONNECTIONS

1. While installation of meters is usually required to be made at the expense of the utility, where the latter's financial condition was such that any considerable demand for meters would handicap continued operation, the utility was permitted to require consumers desiring metered service to make a deposit of the cost thereof, refund of deposit to be made at the rate of twenty per cent of the monthly water bills. *W. Jessen*, 30 C. R. C. 830, 832.

IV. SERVICE BY PARTICULAR UTILITIES

1. Ferries

1. A motion to dismiss a complaint for reparation for alleged excessive and

discriminatory charges for the transportation of auto stages by vehicular ferry "based wholly upon the proposition that defendant is not a common carrier, in so far as regards complainant's stages while employed by complainant in its common carrier service and that, therefore, the tariff does not apply to those stages, but that the charges are a matter of private contract between the complainant and defendant and not subject to regulation by this Commission" was denied upon the ground that, irrespective of whether complainant's stages were being used in the common carriage of persons or property at the time of their transportation, defendant has never refused to receive and transport such stages and has by its acts, dedicated its ferry service to the transportation of such auto busses or stages and their passengers and such property as is carried thereon. The so-called "*Express Cases*" (117 U. S. 1, 29 Law Ed. 791) has no application. *California Transit Co. v. S. P. Co.*, 29 C. R. C. 664, 666.

2. Railroads

1. While the volume of passenger and less-than-carload freight business was not extensive, and as it is for these items that the services of an agent are particularly desirable for the patrons of an agency station, where, if the agency were to be discontinued, no agency facilities would be available to the public over a territory 34 miles in length, application to close such station will be denied. *S. P. Co.*, 30 C. R. C. 24, 26.

3. Street railroads

1. When a defendant street railway utility has not dedicated its properties to service in a particular district of a city either by its acceptance of a city ordinance or by any other act, the Commission has no jurisdiction to direct defendant to make the desired extension. (*Hollywood C. of C. v. Railroad Commission*, 192 Cal. 307.) The Commission can not determine the question whether the city possesses a cause of action to compel such extension in a court of law

as a private contractual right. *Fresno v. Fresno Traction Co.*, 29 C. R. C. 592, 594.

4. Telephone

1. While in a complaint by an individual the only relief which can be ordered is foreign exchange service to the complainant, defendant telephone utilities should make such service available to the public generally without necessitating a further proceeding before the Commission; otherwise a discriminatory situation will exist. *Smart & Final v. Associated Tel. Co.*, 30 C. R. C. 584, 585.

2. The best grade of telephone service can not be given over lines when there are two separate and distinct corporations owning and operating them. *Pomona Val. T. & T. Union*, 30 C. R. C. 593, 595.

3. Failure to render a "referred service" when a call is received for the telephone number of a service which has been "temporarily disconnected," resulting in the calling party receiving a "do not answer" report, being unsatisfactory and followed many times by repeated attempts to call the same temporarily disconnected number at added expense to the utility, arrangements should be made for intercepting service in connection with temporarily disconnected services. *Pomona Val. T. & T. Union*, 30 C. R. C. 606, 614.

5. Water

1. Rates for the sale of water for mining use being on file with the Commission, in the absence of a positive and convincing showing that no water is available to meet such an application for service, the service should and must be rendered. *El Dorado W. Co. v. Western States G. & E. Co.*, 29 C. R. C. 565, 567.

2. The Commission particularly disapproves of the irrigating of lawns and gardens through the unrestricted use by open hoses in cases where water is not abundant, and a utility was required to file a rule forbidding the use of water on flat rate services from open hoses upon penalty of discontinuance for failure to observe. *J. J. Horrigan*, 30 C. R. C. 461, 464.

SURPLUS

Surplus as result of revaluation not proper credit to unappropriated surplus.

See Accounting II, 3.

VALUATION

- I. ASCERTAINMENT OF VALUE OR COST.
- II. MISCELLANEOUS CHARGES TO CAPITAL.
- III. VALUATION OF PARTICULAR TANGIBLE PROPERTY.
- IV. VALUATION OF PARTICULAR INTANGIBLE PROPERTY.

I. ASCERTAINMENT OF VALUE OR COST

1. " * * * there is cast upon the utility seeking an increase of rates the burden of proving by competent evidence a true valuation of the properties involved upon which an interest return is expected." *Fresno Traction Co.*, 30 C. R. C. 216, 217.

2. The Commission has repeatedly held that it will not capitalize a public utility property on the basis of earnings. (2 C. R. C. 693.) *Mackay Radio and Telegraph Co.*, 30 C. R. C. 433, 436.

3. Authorization to issue stock and debentures to pay for specified properties should not be construed as a finding of the cost or value of the properties for the purpose of fixing rates, and failure of the Commission to call attention in its order to overhead and supervision construction costs does not mean that they are necessarily approved. *California Oregon Power Co.*, 30 C. R. C. 541.

II. MISCELLANEOUS CHARGES TO CAPITAL

1. Contemplated additions and betterments were given proper weight in the consideration of a reasonable rate base. *Pomona Val. T. & T. Union*, 30 C. R. C. 606, 609.

III. VALUATION OF PARTICULAR TANGIBLE PROPERTY

1. Where a fire district agreed to pay for the costs of constructing a fire reservoir with appurtenant facilities and fixtures, but the title to the structures and facilities so installed is vested in the utility and the reservoir itself is located upon land owned by said utility, it is entitled to have a sum covering these items included in the rate base as a part of the value of the properties devoted to the public use. *M. L. Goodwin*, 30 C. R. C. 236, 237.

2. Although not actually owning a particular plant a telephone utility included such property in its inventory and appraisal in a rate proceeding. *Pomona Val. T. & T. Union*, 30 C. R. C. 606, 608.

3. Rates were established which would yield a return on the actual investment exclusive of donated properties where the utility was still in the development stage. *O. N. Hirsch*, 30 C. R. C. 776, 779.

IV. VALUATION OF PARTICULAR INTANGIBLE PROPERTY

1. Operative rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. *Peerless Stages*, 30 C. R. C. 346, 349.

2. Claimed "present fair value," including a large amount for "going value" which was purported to be made up of organization, cost of securing new subscribers, and interest during preliminary construction, held to be based largely upon hypothetical assumptions which the record failed to adequately justify. *Pomona Val. T. & T. Union*, 30 C. R. C. 606, 608.

3. In an application to transfer properties and issue securities therefor, the Commission is not called upon to determine what extent contracts providing for the delivery of water at specified rates to the utility or contracts creating an obligation on the utility to deliver water to others at a specified price, are subject to jurisdiction of the Commission or whether the value assigned to such water rights should be modified. *Pacific Water Co.*, 30 C. R. C. 185, 190.

4. Cost of acquisition of the rights to use the waters from springs now used as a main source of supply was included in the rate base of a water utility. *Portola Water Co.*, 30 C. R. C. 302, 304.

5. In authorizing the transfer of an automotive transportation company the vendee was required to file with the Commission a definite and unqualified waiver

of any right to claim value for the operative right transferred, either directly or indirectly as an element of good will, going concern value or other intangible value. *Peerless Stages*, 30 C. R. C. 346, 350.

6. Operative rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. They are permissive and extend to the

holder a full or partial monopoly of a class of business over a particular route, which monopoly may be changed or destroyed at any time by the state, which is not in any respect limited to the number of rights which may be given. (See, also, Decision No. 18958 in Application No. 14040.) *Frank Mullens*, 30 C. R. C. 508, 509; see, also, *F. H. White*, 30 C. R. C. 529, 531; *G. E. Shelby*, 30 C. R. C. 728, 730.

VESSELS

1. The operation of a tugboat of eight tons net register as an auxiliary boat for the service rendered by a mail boat of less than five tons net register, is in violation of the Public Utilities Act, in so far as it is used in the performance of a common carrier service for the transportation of freight and passengers, unless a certificate has been obtained. *B. & R. Boat Owners Assn. v. Frodsham*, 30 C. R. C. 267, 268.

2. Where in every instance the service performed with a barge is rendered

under private contract with the shipper, there has been no such holding out to serve the public generally with the barge as to impress upon its operations the status of a common carrier. *B. & R. Boat Owners Assn. v. Frodsham*, 30 C. R. C. 267, 268.

3. As section 50 (d) of the Public Utilities Act does not confer authority to transfer operative rights, a new certificate of convenience and necessity is required under the provisions of that statute. *E. Miller*, 30 C. R. C. 293, 294.

WORDS AND PHRASES

"Joint User Service"

The term "joint user service" applies to service furnished another person through the joint use of a subscriber's business flat rate service, including a telephone directory listing of the name of the person receiving such service. *Colusa Co. Tel. Co.*, 30 C. R. C. 587, 588.

"Primary Rate Area"

The primary rate area in any exchange is the more closely built up section within all parts of which the base rates apply equally and outside of which is the suburban area in which the base rates increased by mileage charges apply. *Pomona Val. T. & T. Union*, 30 C. R. C. 606, 615.

"Refinery Tops"

In the transportation field the term "refinery tops" and "gas oil" are synonymous. (*Gilmore Oil Co. v. A. T. & S. F. Ry. Co.*, 28 C. R. C. 878.) *Hercules Gasoline Co. v. A. T. & S. F. Ry. Co.*, 30 C. R. C. 574.

"Vessels"

A gasoline launch of a size under the burden of five tons net register is not a "vessel" within the meaning of the term as used in the Public Utilities Act (Sec. 2 (y)), and the operation of such vessel is not in violation of any provision of that act. *B. & R. Boat Owners Assn. v. Frodsham*, 30 C. R. C. 267, 268.

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